



DALIT REPRESENTATION IN NATIONAL POLITICS OF NEPAL

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The cover painting by Rabin Maharjan reflects the Constituent Assembly of Nepal (April 2008 - May 2012). If only an assembly could represent the people as the spirit of an art.

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Publisher's Note

The Dalit liberation movement started over 60 years ago. As the movement continued to fight for social justice and rightful representation, the political context of Nepal since then changed drastically, shifting periodically. Simultaneously, the way the state responded to the voices of Dalits also changed. After the April 2006 movement the issue of inclusion and representation became central in Nepal's pursuit for democracy. It was the start of the constitution and nation building process, which was supposed to establish Nepal as an inclusive democratic nation, to emancipate the Dalit community and end all forms of discrimination and inequality.

This publication responds to a need for a study that, in a comprehensive way, clarifies and examines the dynamics of Dalit representation in Nepal. Meaningful representation, as termed by the authors, of most excluded and historically disadvantaged Dalits, is necessary both for mainstreaming the community and for consolidation of democracy. Both numbers and space for Dalits in political institutions needs to be ensured by the constitution, electoral system and the parties. While analysing the undercurrents of Dalit representation, the authors have kept in mind whether Nepal's political arrangements have been constructive or may need to be revised.

Inclusion of Dalits is an agenda of the nation and a wider societal issue rather than an issue limited to Dalits. Today, descriptive representation of historically disadvantaged groups as a compensatory measure is still a widely debated subject. Proponents and opponents of reservation policies are in debate whether these will lead to emancipation or isolation of the respective community. The authors have dealt with and broadened the scope of this challenging debate and by doing so confronted many of its critiques.

Nepal National Dalit Social Welfare Organisation (NNDSWO) is grateful to the authors, Krishna Khanal, Frits Sollewijn Gelpke and Uddhab Prasad Pyakurel, in their willingness to take up the responsibility of this study. Despite limited resources the authors have done a great deal of effort for bringing this book in our hands. We would like to thank National Endowment for Democracy (NED) for its continued support for the cause.

We welcome all comments and feedbacks from the readers which will encourage us for future research and publications.

Bhakta Bishwakarma
National President
NNDSWO

Preface

Nepal is currently passing through a very crucial phase of political transition following the success of the historic *Jana Andolan II*, the Second People's Movement, and the end of a decade long Maoist insurgency. The Constituent Assembly (CA), which was elected in April 2008 to frame a new constitution, failed to deliver even a draft before its final dissolution in May 2012. This was due to sharp division among the key political players on major political issues such as federal design, method of government and electoral system. A new election of the CA is uncertain and so the framing of a new constitution. Rivalling parties and leaders, currently in a political deadlock, have to start to confront consensus to steer the nation towards a new Nepal.

The call for Dalit representation briefly came to light along with democracy in the early 1950s, resurfaced in the 1990s and gained momentum with the *Jana Andolan II*. The election of the CA was a significant achievement in terms of Dalit representation while Dalit representatives in the CA were able to develop a common informal platform, improving their bargaining strength. This was to ensure constitutional guarantee for meaningful representation and participation of the community in the governance of the country. Still, a truly representative form of government has yet to be established.

Have political institutions been a reflection of the diversity in Nepalese society? Are political parties inclusive in terms of Dalit representation? What have Dalit representatives done for the represented? And what course should the Dalit movement take learning from the past? As investigating the dynamics of Dalit representation in national politics is the main objective, these were the questions discussed while framing this study. Most academic and political debates in Nepal about representation have so far focused on numbers, numerical or physical representation. In addition, few comprehensive work has been done to analyse representation of Dalits over time. Broadening the scope beyond numbers while at the same time accepting their value makes it possible to identify both formal and informal mechanisms that either foster or hamper the representation of Dalits. This way, findings of the study have links with the ongoing constitution and nation building process. Now that Nepal is in a period of reflection, it is especially relevant.

The dynamics of Dalit representation cover both a historical and contemporary analysis, provide an empirical as well theoretical foundation while incorporating both dimensions of quantity and quality. Representation of groups or descriptive representation has been conceptualised in this study as the way political actors stand, speak and act for their similar others. Such a conceptualisation makes it possible to examine whether political presence in numbers results in the supposed welfare of the body politic and truly broadens its societal base.

The study has been grounded on three conditions considered vital for meaningful representation of historically disadvantaged groups in general and Dalits in particular. The first condition is representation in adequate, at least proportional numbers; the second is a link with inclusion through mutual relationship of Dalit leadership with the Dalit community and inclusion of dispossessed subgroups; the third is the creation of sufficient political and institutional space for Dalit representatives to effectively represent their community. The analysis is based on a rigorous examination of secondary governmental and party sources as well as semi-structured interviews with Dalit and non-Dalit political agents from different periods and political backgrounds and scholars specialised in the field.

The book is structured around the conditions of meaningful representation. Chapter one 'Introduction' presents the situation of

Dalits, the political context of Nepal and outlines some of the broader themes of the book. Chapter two tackles the normative underpinning of the study. It provides a philosophical debate on including historically disadvantaged groups in the political process while linking discussions with empirical findings. Chapter three gives a historical and comparative analysis of Dalits in politics taking into account of relevant constitutional and legal provisions. Chapter four deals with the internal dynamics of Dalit representation. It analyses the sex, region and caste wise participation of subgroups within the Dalit community as well as the relationship between Dalit representatives and their represented. Chapter five investigates space for Dalits in the structures of the major political parties and institutional space for Dalit representatives to represent. Chapter six recaptures, broadens and offers recommendations.

Some limitations of this study have to be addressed. Considering the vast number of candidates across Nepal's general elections, it is evident that the list of Dalits collected is not complete. Some names might have been missed. This is despite the extensive knowledge of the staff of Nepal National Dalit Social Welfare Organisation (NNDSWO). We take full responsibility for any omission or commission.

Our gratitude goes to NNDSWO for giving the opportunity to conduct this research on such a vital issue at such a critical time. Specifically, we would like to thank Kul Bahadur Bishokarma for bringing the team together and providing his input, Anita Bishankha for her help with the data collection and analysis and Sonia McFarlan for editing. Finally, we would like to thank all interviewees for their frank and open discussions.

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List of Tables

Table 1 :	Dalit Development Indicators of Nepal	17
Table 2 :	Nepal Caste and Ethnicity Wise Human Development	18
Table 3 :	List of Dalit Castes	33
Table 4 :	Segregated Dalit Population of Nepal 2011	34
Table 5 :	Development Indicators of Hill and Terai Dalits	35
Table 6 :	Literacy Rates of Dalit Castes	37
Table 7 :	Dalit Candidacy in the 1959 General Election	77
Table 8 :	Dalits in the National Panchayat 1961-1990	79
Table 9 :	Dalit Candidacy in the 1990s General Elections	82
Table 10:	Top Ranking Dalit Candidates of the 1991, 1994 and 1999 General Elections	86
Table 11:	Dalits in the National Assembly 1991-1999	87
Table 12:	Dalits in the Cabinet 1990-2006	89
Table 13:	Dalit Seats in the Interim Legislature-Parliament	94
Table 14:	Dalit Candidacy under First-Past-The-Post in the Constituent Assembly Election	97
Table 15:	Top Ranking Dalit Candidates of the Constituent Assembly Election	99
Table 16:	Dalit Candidacy under Proportional Representation in the Constituent Assembly Election	101
Table 17:	Dalit Nominations in the Cabinet 2006-2012	102
Table 18:	Dalits in the National Legislature 1951-2012	105
Table 19:	Dalit Candidacy in General Elections 1959-2008	105
Table 20:	Dalits in the Cabinet 1951-2012	106
Table 21:	Female and Female Dalit Candidacy in the 1990s General Elections	109
Table 22:	Female Dalits Contesting in the 1999 General Election	110
Table 23:	Hill and Terai Dalit Candidacy in the 1990s General Elections	111
Table 24:	Musahars Contesting in the 1999 General Election	112
Table 25:	Caste Wise Dalit Candidacy in the 1990s General Elections	113
Table 26:	Dalit Members of the Interim Legislature-Parliament	116
Table 27:	Caste Wise Dalit Representation in the Constituent Assembly	119
Table 28:	Female and Female Dalit Candidacy in the Constituent Assembly Election	121
Table 29:	Hill and Terai Dalit Candidacy in the Constituent Assembly Election	122
Table 30:	Caste Wise Dalit Candidacy in the Constituent Assembly Election	124
Table 31:	Dalit Representation in the Central Executive Committees of the Major Political Parties 2012	142
Table 32:	Dalits in the Central Working Committee of Nepali Congress	143
Table 33:	Dalits in the Standing Committee of Communist Party of Nepal-Unified Marxist Leninist	144
Table 34:	Dalits in the Standing Committee of Unified Communist Party of Nepal Maoist	146

Contents

Chapter 1

Introduction ... 11

Chapter 2

Meaningful Representaion:
Connecting Theory With Nepalese Dalits ... 43

Chapter 3

A History of Dalits in the Political Process ... 71

Chapter 4

Inclusion-Exclusion within the Dalit Community ... 107

Chapter 5

From Party to Community:
Political and Institutional Space ... 131

Chapter 6

Conclusion and Way Forward ... 155

References ... 165

Chapter 1

INTRODUCTION

Nepal, the youngest republic in the world, has found itself at a junction. The founder of the present state of Nepal viewed it as '*Dui Dhunga Bichko Tarul*' - the yam stuck between two boulders, symbolising that Nepal is a landlocked country inserted between two Asian giants - China and India (Sri Panch Prithvi Narayana Shahko Upadesh, ND: 11). Nowadays, the people ironically call it '*Dui Tarul Bichko Dhunga*' - the stone stuck between two yams, expressing that Nepal has not been able to progress in a changing global context. While it is renowned for the highest peak, Mt. Everest, the majestic Himalayas, the highest chain of mountains in the world, almost all the climatic zones of the earth can be found in Nepal, from tropical forest of the Terai to arctic desert wastes in the higher regions and in the arid zone of the Tibetan plateau. Nepal's multiplicity is not limited to its natural features as its cultural landscape is just as diverse.

Of more than hundred ethnic and caste groups that make up the nation of Nepal, Dalits, comprising of approximately 14 per cent of the population (CBS, 2012)¹, have been and remain the most disadvantaged and marginalized community. Dalits face caste based discrimination as they are entrenched in an age-old caste system, often described as the 'iron chain', that reinforces hierarchy between 'upper' and 'lower' castes in South Asia (Bose & Jalal, 2004: 4; Mines & Lamb, 2002: 167; Yekta, 2009). Dalits rank at the very bottom. Untouchability practices are still prevalent, especially in the remote and rural areas of Nepal, even touching food or possessions make them polluted and unacceptable for others. To name only one incident, on 1 January 2012, Maya B.K., a 27 year old Dalit woman, wanted to collect water from the village well in Tanahu district, west of Kathmandu. When she accidentally touched the water container of a Newar woman², nearby members of the Newar community beat her repeatedly, resulting in severe injuries in the neck and head (Kantipur, 2 January 2012).

Being denied access to temples, private homes, festivities, restaurants, public water sources as well as denial in marriage with members of non-Dalit castes, Dalits are segregated from the rest of society. Dalits have been discriminated while collecting services from government officials, in health care, loans in the financial market and due process in mitigation, inhibiting their rights as citizens (Bhattachan et al., 2003). In addition, Dalits still cope with various semi-bonded labour relationships like *Haliya*, *Charuwa*, and *Balighare* (Adhikari, 2010). A reminiscence of a feudal legacy, it obliges Dalits to work for 'higher castes' through debt bondage. While officially abolished in Nepal in 2008, the persisting landlessness and deprived economic as well as educational status have resulted in the continued dependence on exploitative, often wage-less, labour for

¹ The Population Census of Nepal does not enumerate Dalit as a single entity but provides separate data for 22 out of 26 (2011) and 16 out of 26 (2001) Dalit castes while mentioning unidentified Dalits in a separate section, see CBS, 2002; CBS, 2012. The data relating to Dalit population based on the Census is contested. Newar Dalits - Pode and Chyame are not mentioned separately but counted under the Newar community instead. Some Terai Dalit castes such as Lohar and Sonar which are not treated as Dalit in Terai, overlap with those in hills where they are treated as Dalit. A demographic survey by NNDSWO (2006) covering 10,000 households across six districts estimated that the Dalit population could actually be around 20 per cent.

² The Newar community is considered a 'higher' caste.

subsistence. As Amarty Sen notes, in agrarian societies landownership is important to access employment, credit and education (2000). Indeed, Dalits in Nepal have been prevented from joining social, economic and political life on equal terms.

Now Nepal is resurfacing as an inclusive democracy, broadening the participation and representation of Dalits and other marginalised groups that is essential for integrating them in the structures of the state and the fabric of society. It is vital, especially while writing a new constitution, in establishing and consolidating Nepal as an inclusive democracy that safeguards the rights and opportunities of all its citizens. It was B.R. Ambedkar, a Dalit leader and Chairman of the Drafting Committee of the Constitution of India, which provisioned for the affirmative action and special provision for representation of backward classes of citizens enacted by the Constituent Assembly of India on 26 November 1949, who stressed the importance of including the 'depressed classes', later to be recognised as Dalits, in the political process. He states:

Nobody can remove our grievances as well as we can and we cannot remove them unless we get political power in our hands... We hold that the problem of the depressed classes will never be solved unless they get political power in their hands. It is eminently a political problem and must be treated as such (Das, 1963: 16-18).

The State of Dalits in Nepal

Caste hierarchy in Hindu societies like those of India and Nepal goes back as far as 1500 BC. As historian R.C. Dutt notes in the context of India in the late 19th century, which also applies to Nepal:

It [the caste system] divided and disunited the compact body of Hindu Aryan into three hereditary bodies, viz. the priests, the soldiers, and the people. And it permanently placed the people under the priestly and the military castes; and thereby hindered popular progress and the growth of popular freedom (cited in Bhattacharya, 1896: 2).

In Nepal the state further reinforced the caste system through legal instruments and maintained structural barriers that prevented and still prevent Dalits from obtaining equal voice in the policy making process. In 1854 caste hierarchy and untouchability was codified and

endorsed in the old civil code of Nepal, the *Muluki Ain* (The Country Code of Nepal, 1854). In accordance with the *Manusmriti*, the Hindu code, distinction was made between four different caste groups or Varnas each with assigned professions - Brahman as priests and scholars; Kshetri as warriors and statesmen; Vaishyas as merchants; and Sudra as labourers, peasants and artisans (Manusmriti: The Laws of Manu 1500 BC, ND). Each had a separate code of conduct and different punishment for violations. This undermined equal citizenship in Nepal in its very principle. Untouchability was also classified in the *Muluki Ain*, providing a list of castes with which water could not be shared. These people termed as 'untouchables' were left legally and literally as outcastes.

Democracy was first introduced in Nepal in 1951 and general elections were held for the first time in 1959 on the basis of universal adult suffrage. With the introduction of democracy assertions towards rightful representation, social justice and special rights surfaced as equality and individual liberties were presented in the country's political context and codified in its constitution. However, the country's experience with a representative form of government was short-lived. In 1960 the King dismissed the government with support of the military and installed an autocratic regime known as the Panchayat that would last for over thirty years. General elections were suspended and political parties abolished. The overall absence of democratic accountability gave full reign to privileged groups and did little to overcome Dalit exclusion. While a new *Muluki Ain* was promulgated in 1963, formally on the basis of equality (The Country Code of Nepal, 1963), the 1962 constitution nevertheless declared Nepal as a "Hindu State" (The Constitution of Nepal, 1962: art. 3), outlining the dominance of Hindu values and often tolerating caste hierarchy in practice³.

With the success of a historic popular movement in April 1990, known as the *Jana Andolan*, multi-party democracy was restored in

³ The 1963 Country Code was not effectively enforced and still allowed for the continuance of discriminatory practices under "traditional" or "customary" practices under a clarification in section 10 (ka) (Nepal Country Code, 1963). Challenging the constitutionality of this provision, Man Bahadur Bishwakarma filed a case to the Supreme Court, see Man Bahadur Bishwakarma vs. Ministry of Law, justice and Parliamentary Affairs and others, 34, Nepal Kanoon Patrika, 10: 1010, 2049 BS (1993).

Nepal. The 1990 constitution stated that sovereignty lies with “the people” and that Nepal is a “multi-ethnic, multi-lingual and democratic constitutional monarchy” (The Constitution of the Kingdom of Nepal, 1990: preamble). This made the country formally democratic, provisioning for regular elections and ensuring basic political rights founded on the principle of individual universalism. Notwithstanding, the constitution, framed by the representatives of agitating political parties and royal nominees, still declared Nepal as a “Hindu Kingdom” (Ibid.: Art. 4). The constitution latently allowed for the continuance of discriminatory norms in general and customary law in what proponents ironically called “one of the best constitutions in South Asia, if not in the world” (Lawoti, 2005: 114). By turning a blind eye towards group differences for the sake of treating every individual equally, inequalities were silently accepted in Nepal’s multicultural landscape.

While showing perceived legitimacy after the Panchayat period, the second democratic period of Nepal in fact continued to favour overrepresenting groups while excluding others. The liberal conception with the right to run for office and to vote, ‘equally’ given to Dalit citizens, ignored predisposed informal relations for appointments in state governance and patron-client relations in selecting the positions in political parties that favoured the members of ‘upper castes’. This may not have been aimed at denying others, predominantly Dalits, however, such relations grounded in prejudice and nepotism cannot help but do so. The heavily centralised state of Nepal, even after its transition to democracy, and the instalment of a majoritarian or First-Past-the-Post (FPTP) electoral system, where only the most of votes count and permanent minorities permanently lose (Guinier, 1994), further exacerbated the situation (Brown, 1996). It gave little space for the geographically dispersed Dalits to manoeuvre within the confines of the state. Even though this formally democratic period did not succeed in ensuring equality, it did manage to open up the polity, allowing for the amassing of dissent. In 1996 an armed rebellion was launched by the Communist Party of Nepal-Maoist (CPN-Maoist)⁴

⁴ CPN-Maoist was formed in 1994 splitting from CPN-Unity Centre, and after the Constituent Assembly elections it merged with CPN-Unity Centre as Unified Communist Party of Nepal-Maoist (UCPN-Maoist). In this book CPN-Maoist is used in the pre-merger context and UCPN-Maoist following the merger.

to overthrow the parliamentary democracy restored by the 1990 constitution with their own version of 'people's democracy' (Thapa, 2004: 45). The Maoists, while fighting for a 'communistic' casteless society, politicised the issue of Dalit inclusion in Nepal's unbalanced political landscape. Subsequently, many Dalits joined the insurgency, voicing their political claims for a new and inclusive Nepal beyond and above the barriers of conventional politics. The insurgency claimed the lives of over 13,000 men, women and children (Boquérat, 2009: 45), many of whom Dalits.

In 2005 a coalition was formed with the seven major political parties and the CPN-Maoist to resist King Gyanendra's absolute rule. It peaked with the momentous second peoples' movement of Nepal, the *Jana Andolan II*⁵, and resulted in the signing of the Comprehensive Peace Accord (CPA) and adoption of the Interim Constitution (2007) during which CPN-Maoist started joining mainstream politics (Upreti, 2008). The issues of rightful representation, social justice and special rights resurfaced. The nation was determined to begin the drafting of a new and inclusive constitution. The 2008 election of the Constituent Assembly (CA), the political body assigned with both legislation and drafting of the new constitution as provisioned by the Interim Constitution, was the first election held in Nepal on the basis of a mixed electoral system. It allocated 42 per cent through FPTP and 58 per cent through proportional representation (PR) where seats are given on the basis of the proportion of votes. This gave many more opportunities for the Dalit community to be represented in mainstream politics.

The Interim Constitution declares Nepal as a "secular, inclusive and federal, democratic republican state" (2007: art. 4). The extreme concentration of power of the unitary state, that played a part in the over representation of certain groups, has been abandoned in favour of a federal and republican state that shares power among different groups and regions. In addition, the newfound secular state can no longer allow, silently or otherwise, for the continuance of a hierarchical caste system that obstructs political equality in any way. It explicitly prohibits "discrimination against any citizen on the basis of religion,

⁵ Soon after the success of the April 2006 people's movement, the media started to refer the movement as *Jana Andolan II*, the first being that of 1990.

colour, sex, caste, tribe, origin, language or ideological conviction by the state or general law” (Ibid.: Art. 13 (2)). This with the only exception that the state is authorised to make special provisions:

...for the protection, empowerment or advancement of women, Dalits, indigenous peoples, Madhesi or farmers, workers or economically, socially or culturally backward classes or children, the aged and the disabled or those who are physically or mentally incapacitated (Interim Constitution of Nepal, 2007: Art. 13 (3)).

Institutional measures and procedures intended to ensure the proportional participation and representation of Dalits in all state organs are further stressed explicitly as “the right to social justice” in the fundamental rights section of the constitution, making it obligatory for the state to enforce (Interim Constitution of Nepal, 2007: Art. 21). This implicates more than altering the electoral system, and has to be addressed and resolved in the configuration and design of decision making bodies. Moreover, it is essential in compensating for past injustices that continue to be observed in the human development of the country. On human development indicators across economic, educational and health dimensions, Dalits score far below the national average (see table 1).

Table 1: Dalit Development Indicators of Nepal

Development Indicator	Dalits	National Average	Development Ratio
Poverty 1995/1996	57.8%	41.8%	0.723
Poverty 2003/2004	45.5%	30.8%	0.677
Average per capita Income (USD)	977 per year	1597 per year	0.612
Literacy	38.02%	52.42%	0.725
Educational Attainment	0.292	0.421	0.694
Under-five Mortality Rate	90 per thousand	68 per thousand	0.756
Life Expectancy (Years)	61.03	63.69	0.958
Human Development Index	0.424	0.509	0.833

Adapted from UNDP, 2009; development ratio (of Dalits), compared to national average (taken as 1), is based on authors' calculation

The incidence of poverty, while its prevalence has decreased in Nepal, is still far more widespread among Dalits. In fact, the relative poverty of Dalits, compared with the national average, increased from 1995/1996 to 2003/2004, as shown in the development ratio (from 0.723 to 0.677, indicating that the gap has increased) (see table 2).

Table 2: Nepal Caste and Ethnicity Wise Human Development

Caste/Ethnic Group	HDI	Ratio to National HDI
Dalits	0.424	0.883
Brahman/Chhetri	0.552	1.084
Newar	0.616	1.209
Janajati	0.494	0.971
Muslim	0.401	0.787

Adapted from UNDP, 2009

This is visible in differences in per capita income; Dalits make less than two-thirds of the national average. In addition, there are significant gaps in literacy, educational attainment and under-five mortality rate. The Human Development Index (HDI) of Dalits is one of the lowest in Nepal and considerably lower than 'upper caste' Brahman, Chhetri and Newar as well as of Janajati, the indigenous communities of Nepal.

Dalit Representatives and Dalit Representation

The issues of social justice and rightful representation of Dalits in Nepal began to rise to a highpoint in public debate after the successful *Jana Andolan* in April 1990. Following the successful second people's movement, *Jana Andolan II* of April 2006 that called for political change, it reached its pinnacle. Subsequently, the state has put forward policies and initiatives of 'affirmative action' and 'positive discrimination' with the objective of overcoming past marginalisation. Individuals belonging to the Dalit community have benefited from reservations in education, employment in the public sector as well as representation in the political institutions. Such beneficiaries have advanced their position in society (Ram, 1999: 440-441). However, whether or how enhanced education of particular Dalits and having 'a number' of Dalit representatives in political bodies affect the representation and position of the Dalit community as a whole is not so clear.

Two theoretical perspectives of political representation seemingly oppose. First, the representation of 'abstract citizens' (Pitkin, 1967) is stressed in a 'politics of ideas' (Phillips, 1995). Introduced in the writings of Rousseau and epitomised in the spirit of the French Revolution of 1789, politicians are assumed and expected to represent the nation as a whole. Second, the representation of the characteristics and identities of different groups and communities, of different sexes, ethnicities and castes that link representatives with represented, is emphasised in a 'politics of presence'. This approach to representation was practiced by the British in the nineteenth century in their dependencies as part of a 'divide and rule' strategy (Jaffrelot, 2009). In the classic understanding of liberal democracy, differences are regarded primarily in ideas and representation is evaluated in how it reflects the public's opinions, preferences and beliefs. In homogenous societies where interests and identities change and cross-cut different segments and layers of the populace, it arguably provides the best platform for representation. However, by disconnecting ideas from people, such a conception of representation ignores the persisting nature of identities in heterogeneous societies that determine political behaviour. When a blind eye is turned towards the relationship between dominating ideas and not so abstract citizens, some groups will come to see themselves as excluded, silenced and marginalised.

The role of politicians is to carry a message. Ideally the message will vary and it will hardly matter if the messengers remain the same. However, the particular messengers seated in decision-making bodies will have a monopoly on articulating policies and ideas (Alcoff, 1994). In Nepal, men rather than women, upper castes rather than Dalits, have had a monopoly playing the role of messengers on behalf of others. This role has been seriously neglected. In a context of exclusion, it is difficult to meet demands for substantive democracy without including representatives from different groups:

Men may conceivably stand in for women when what is at issue is the representation of agreed policies or programmes or ideals. But how can men legitimately stand in for women when what is at issue is the representation of women per se? ...can an all-white assembly really claim to be representative when those it represents are so much more ethnically diverse? (Phillips, 1995: 6).

The shift from direct democracy to a representative form of government has changed the emphasis from “who the politicians are” to “what kind of policies, preferences and ideas they represent”. What representatives do for represented has become essential in any elected institution for connecting representative politics with mechanisms of democratic accountability. The need for a ‘politics of presence’ in addition to a ‘politics of ideas’ should therefore not come with a move from seeing representation as “what political actors do for represented” to “what representatives are”. This will limit the assessment of political institutions to their composition.

How many Dalits are there in the legislature? Is it proportional to their population? Yes? Then our job is done. Dalits in this country are being represented! While the classic liberal mode of representation is inadequate to compensate for historically embedded disadvantages, a narrow focus on physical representation, whether proportional or a form of constructive over representation, cannot be a solution either (Mansbridge, 1999; Phillips, 1995: 25). The two approaches should not be placed as exclusionary opposites: neither when ideas are treated separately from the people who carry them nor when people, their identities and characteristics, overshadow while no consideration is given to policies or ideas. Ultimately, it is in the connection between ideas and presence that a fairer system of representation can be found.

The representation of groups or ‘descriptive representation’ is concerned with the descriptive similarities between representatives and represented (Sapiro, 1981; Phillips, 1995; Williams, 1998; Mansbridge, 1999). It should address the composition of political institutions as well as what representatives do for the variety of groups they are assumed and supposed to represent. Descriptive representation therefore needs to be conceptualised as taking place when political actors - *stand for, speak and act on behalf of similar others*. With a common history of deprivation and a collective memory of discrimination, Dalits share deep-rooted experiences of their exclusion. Such experiences, however, do not automatically result in a mutual relationship between Dalit politicians and their community. India has had reservation for Dalits in state governance for several decades.

While many laws and initiatives have been enacted and implemented for the protection, empowerment and advancement of Dalits, Dalit representatives in India have been accused of corruption, nepotism and elitism, of enriching themselves and promoting relatives rather than serving Dalit constituencies (Sachchidanand 1977; Parvathamma, 1989). When Dalit representatives do stand for, speak and act on behalf of Dalits it creates a virtuous cycle of trust, involvement and policy responsiveness of and towards Dalit constituencies where in the past there was little or none. Bringing in Dalits in the political process contributes to include previously disregarded perspectives, voices and interests. This enhances democratic accountability and institutional legitimacy. Hence, *Dalit representatives have a mandate to represent the Dalit community.*

The Right to Equality

For the members of suppressed communities in Nepal and elsewhere equal access to the political process is vital. Most nations with a codified constitution include the right to equality in the fundamental rights section, but what constitutes as equal and how equality can best be pursued remains problematic. Every person residing in a territory can be given the same basic rights and responsibilities. Every citizen can be given the same political rights - the right to vote, the right to assemble and the right to run for office. Still, this will not safeguard political equality. Equality, both theoretically and in practice, formally as well as informally, carries certain assumptions and structures. It has meant different things at different times in various contexts. The Greeks of ancient Athens (461-322 BC), forefathers of modern Western democracy, gave equal rights and obligations to all its citizens. All citizens came together to deliberate and to make collective decisions on issues of public interest (Rhodes, 2004). Nevertheless, a large section of the people - women, slaves and barbarians, were denied citizenship in the Greek conception of equality and excluded from political life.

Even modern representative democracies, in pursuing universal adult suffrage, while not making any formal distinction between race, sex, ethnicity and caste, still deny foreigners, children, mentally

impaired and criminals from obtaining full citizenship. Preventing criminals from enjoying the same rights and taking the same responsibilities might seem sensible. Then again, who decides who is criminal? Any conception of citizenship carries a myth of equality that masks a construction of difference and a manifestation of otherness. This can obscure the perpetuation of extreme injustices. And when humanity as a whole can be considered equal it still leaves out those deemed inhuman: "All animals are equal but some animals are more equal than others" (Orwell, 1950: 148). Stretching the concept to its limits, Jain religion believes every living organism is equal.

Bearing in mind the underlying normative propositions, the concept of equality is basically concerned with the question of *which* ascribed people are considered identical or similar, ascribed meaning that the identity or characteristic on which exclusion or inclusion is based is beyond the individual's choice or control. In any given setting, who are defined as citizens and who are left out will be seen as normal, natural and even good, something that 'everyone' in a given setting understands as equal (Foucault, 2005: 523; Gutting, 2009). As immigrants are not born in the country of residence, they are 'naturally' considered unequal with regard to civic rights. Does this mean that territorial boundaries supersede those of humanity? And in South Africa during the apartheid regime, every white person was equal. These discourses become 'regimes of truth', part of the power relations that define the context (Foucault, 2002: 60; Lukes, 2005: 7; Comaroff & Comaroff, 2002: 207). Rather than limited to explicit distinctions between nationals and foreigners or adults and children, equality before the law and functioning democratic institutions can also sustain relationships of dominance and exclusion in sex, race, ethnicity and caste (Sollewijn Gelpke, 2010: 18).

In Nepal, civil and political rights were constructed on the basis of caste groups in the old country code. Every member of each caste group taken separately was equal while the distinction between so-called 'impure' and 'pure' castes was categorised and untouchability codified. Giving every person rights and responsibilities according to their status was considered as natural and fair, not unlike distinguishing between adults and children in voting rights now. Equality was

perceived in isolation. In 1963 the old country code was replaced by King Mahendra with a new code that formally prohibited caste-based discrimination and untouchability, and no longer differentiated citizenship on the basis of caste (The Country Code of Nepal, 1963). This was endorsed in the 1964 Citizenship Act of Nepal. However, equality before the law ignored how the conception of citizenship continued to exclude, particularly Dalits, indirectly. Until the ratification of the new Citizenship Act in November 2007, citizenship in Nepal including all civil and political rights that flow from its conception, was linked to land ownership. Only those who had a land ownership certificate or whose father already had citizenship could obtain it easily. This resulted in the inability for millions residing in Nepal, many of whom Dalits, whose landlessness has historically been and remains far above the average of Nepal, to become true citizens.

Formal political rights, based on the principle of individual universalism, are blind to pre-existing differences between groups in distribution of economic and educational resources as well as in positions of power sustained through informal relationships. This way, democratic institutions and equality before the law can maintain the status-quo and continue historical injustices while keeping an image of legitimacy. As mentioned earlier, the second democratic period of Nepal (1990-2006), at least until the Maoist insurgency gained foothold after 2001, saw regular and relatively 'free and fair elections' based on universal adult suffrage that safeguarded individual rights. The winner of the 1994 election, the Communist Party of Nepal-Unified Marxist Leninist (CPN-UML), from the otherwise largest Nepali Congress (NC) can even be seen as a consolidation of democracy. According to Huntington (1991) the ultimate test for a young democracy is whether those in power are willing to give it up after defeat in elections, whether democracy has incorporated a framework of political competition. Notwithstanding, the persisting over representation of 'upper castes', Brahman and Chhetri from the hills, the continued exclusion of Dalits as well as other marginalised groups in elected institutions and a decade long Maoist insurgency show the contrary. Competition limited to an 'upper caste' elite proved inadequate in addressing the exclusion of marginalised groups in Nepal. In fact, increased competition among

major political parties mainly seemed to affect issues of campaign funding and putting forward charismatic candidates for office rather than widening the scope of support bases of alternating powers (Zerinini, 2009: 62; Pyakurel, 2012).

The establishment of formal democracy, while providing a foundation, does not ensure the liberties and equitable opportunities of all the people. After all, if one particular form of government was perfect there would have been no clash between political ideologies in the 20th century and beyond. Every age has experimented with several types and subtypes of political systems. In this regard, the end of history is certainly not in sight. Though it can be said that for many citizens across the globe democratic institutions have proved beneficial in comparison to the absence of such institutions, the label of democracy and electoral arrangements can unquestionably be used by those who dominate and disregard others. A more nuanced understanding is needed. In the words of Winston Churchill:

Many forms of government have been tried and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of government except all those other forms that have been tried from time to time (Speech in the House of Commons, 11 November 1947).

Regmi points out that the people of Nepal have paid not only for the ambitions of their kings and political leaders, but also for their follies and rivalries. Referring to democracy that surfaced in 1990 as a result of the *Jana Andolan*, he states:

Today the people of Nepal have gained both a national identity and the national purpose of advancing their own welfare through democratic means. They have finally won the right to make and unmake their political leaders. One would like to hope that the Nepali nation today will learn a lesson from the history of the Gorkhali Empire and shape its future in the interests of the people themselves, rather than in the interests of its kings and political leaders (Regmi, 1995: 69).

His statement was a plea to his fellow Nepalese citizens to learn from the past, to shape the future in the interest of the people and all those who constitute the people and not to fall for the rhetoric of a political elite. It would seem that history repeats itself.

Democratisation in Nepal

The CA that was elected in 2008 was not only the highest sovereign body of the Nepalese people until its dissolution in May 2012, it was also seen as the most inclusive body in South Asia, if not in the world. The Assembly was composed of 33 per cent women, 34 per cent Janajatis, 35 per cent Madhesis and 8.32 per cent Dalits.⁶ In addition, it contained representatives from other minorities like the physically handicapped and differently-abled (Adhikari & Pyakurel, 2011). The representation of so called upper caste groups like Chhetri and Brahman who used to dominate in previous parliaments, came down to almost the proportion of their respective population ratio.

In a country recognised for its diversity, the visible representation of previously excluded groups is applauded as a sign of progress, not unlike celebrating the 1990 constitution as ‘the best constitution in South Asia’. Celebration, however, is only appropriate if representatives elected by the public are committed positively towards concerns of the nation and the different communities that constitute the nation. Upreti argues that democracy “is viewed as the people’s governance but it is doubtful whether it has ever become for the people, of the people and by the people” (Upreti, 2012: 2). Such a statement might sound extreme, but in Nepal the words give significance to its historical context. Indeed, the social, economic and political foundation in Nepal have not been supportive to inclusive democracy and marred its consolidation.

Democracy did not gain roots from within Nepali society. It is a ‘Western as well as modern’ concept that came to British India through colonialism in the early 20th century. The process of democratisation began in Nepal with the overthrow of authoritarian Rana family rule in 1951 (Joshi & Rose, 1966: 57-80). In 1847 Jung Bahadur Rana seized the power from the monarchy in Nepal after a bloody massacre of ruling courtiers. While reducing the King to ceremonial head, he introduced a dynasty of hereditary prime ministers of his own family. Any action

⁶ The tally of percentages exceed 100 because some of the groups like Dalit and Janajati are found both in the hills and Terai/Madhes and are counted double. 601 seats in the CA were distributed as 335 seats by closed party list under PR, 240 seats on the basis of single-member constituencies under FPTP and 26 seats through nominations by the Council of Ministers, see Interim Constitution of Nepal, 2007: Art. 63 (3).

intended to limit the power of the Ranas was ruthlessly suppressed. In 1941 four persons were put to death for advocating democracy and several persons were sentenced to long-term jail sentences after a plot of rebellion against Rana family rule was exposed. The Rana rulers had made a tactical deal with the British for support in dealing with opponents, in exchange for extended military support during the Sepoy Mutiny of 1857, in World War I (1914-1918) and World War II (1939-1945). But with the final days of British imperialism in sight, the struggle for independence in India was also putting more and more pressure on the regime that was incapable of containing mounting anti-Rana activities taking place in India.

The anti-Rana and pro-democracy movement gained momentum in India in the 1940s, launched by the Nepalese residing in that country and highly inspired by the Indian National Movement (Singh, 1995). They received education outside Nepal and with their involvement in the Indian National Movement were introduced to the ideas of nationalism, equality, and self-rule. After a popular revolt prompted by King Tribhuvan's asylum in India and led by NC that was founded in India in 1946, the 104 year old Rana dynasty finally came to an end. This commenced the first democratic period of Nepal, installing a multi-party parliamentary democracy. In the 1950s a new political elite emerged that was moved by a reformist spirit. Most of the people that had lived in Nepal, however, lacked such political consciousness and mobilisation. As a result, endless rivalries and power struggles among major political parties and politicians allowed for the re-emergence of the traditional elite under leadership of the monarchy (Joshi & Rose, 1966).

In December 1960, only 18 months after the first general election of Nepal, King Mahendra dissolved Parliament and seized power, resulting in an autocratic and strongly centralised state in the name of partyless *Panchayat* regime. The possibility of raising voice for inclusion and effective remedy for caste-based discrimination minimised except through royal grace. Until 1990, many Dalit activists believed that their issue was first and foremost related to the restoration of democracy in the country and linked their struggle with achieving broader democratic goals.

Community and Party in Nepal's Political Arena

Since the restoration of multi-party democracy in 1990 and increasingly after the 2006 April Movement that led to an end of monarchy in Nepal, major political forces have a domination in all spheres of society. Bureaucracy, police and media are often associated or have intimate relations with the established political parties, providing little room for scrutinising the political process. The monopolisation of power by major parties has fostered a climate of corruption and nepotism. As an international anti-corruption watchdog carried out a survey in Nepal in December 2011, over 52.7 per cent of the respondents perceived the political parties as the most corrupt institution, followed by the legislative and police (The Kathmandu Post, 23 December 2011).

Party leadership has traditionally been occupied by the 'hill high caste elite' and the existence of patron-client relationships between central party leaders and local cadres (Hachhethu, 2002: 209) have continued to bar Dalits from decision-making, in the legislative, executive and in party leadership. Under majoritarian parliamentary rule no space was available for Dalits. In fact, out of 336 cabinet ministers appointed between 1990 and 2002, none of them was from the Dalit community (Khanal, 2006). According to Lawoti:

In the 1990s, leaders nominated at least half the central committee members, many of whom were relatives and caste brethren. Central leaders also appointed or influenced the selection of party candidates for parliamentary, local, and organizational elections (Lawoti, 2010: 33).

The polarised political landscape in Nepal creates difficulties for Dalit representatives from different political parties and with different political ideologies, who nevertheless have a common interest in representing the Dalit community, to form a common stance on Dalit issues.

While the introduction of a mixed electoral system in Nepal permits smaller parties to be represented in the elected institutions, the political landscape in Nepal has obstructed the establishment of Dalit led political parties.⁷ Dalit political actors and voters are divided along party lines.

⁷ Leading parties have been using their dominant position to dictate the rules of the political games in order to strengthen their position, making the participation of a new political party difficult. Dominating parties have been called 'cartel parties' as they have a monopoly on political power, see Hague and Harrop, 2007.

The CA election of 2008, the political body that was responsible for drafting the new constitution, required putting forward experts and lawyers qualified in the legal procedures of writing a constitution. It also required incorporating the perspectives of different groups that have been neglected and set aside in Nepal's past to certify a new inclusive era in Nepal. But political parties seemed to have been more concerned with electoral success and taking acclaim rather than representing the nation and its depressed communities.

The deadline for the draft constitution was surpassed three times before the dissolution of the CA in May 2012. When representatives and top leaders stand strictly on party lines contesting on minor issues and terminology (Khanal 2010: 40), the process will be seriously delayed. Indeed, tight party discipline in the dissolved CA, with special party whips ensuring its members to abide by party position, made it difficult for any representative, let alone Dalit delegates still unfamiliar with 'the rules of the game', to represent constituency, community and nation rather than party only. When at the same time many Dalit members of the CA are uneducated and new to existing formal and informal procedures, they will be reluctant to stand for, speak and act on behalf of the Dalit community. This created constraints in drafting an all-inclusive constitution. Dalit representatives had a mandate to ensure Dalits are represented in the constitution drafting process, to make sure that demands and concerns of Dalits are addressed in the new constitution. Only the creation of a level playing field for Dalits as well as other marginalised groups in Nepal's political arena can ensure the consolidation of inclusive democracy. The future of Nepal depends upon how the new constitution will be materialised.

In a modern democracy, political parties build a crucial bridge between the public and politics through their representative function. They mobilise civilians, aggregate demands and recruit candidates for legislation and government. This way, the political party functions as an essential intermediary between the state and society. In neither practice nor theory is there any other body that can replace this crucial function: "The political parties created democracy and modern democracy is unthinkable save in terms of parties" (Schattschneider, 1942: 1). Establishing a truly representative form of governance in

Nepal that embraces Dalits as well as other marginalised groups is also unthinkable without a consideration of political parties. Since Dalit led parties have, so far, not been able to mobilise Dalit voters, a responsibility lies with the major political forces. However, major parties have so far failed to find an appropriate balance in maintaining party discipline and giving a voice to Nepal's historically disadvantaged communities. This has created a cleavage between those that rule and those that are ruled, thereby impeding the legitimacy of political parties. Without sufficient political and institutional space for Dalit representatives to balance party interest with community and national interest, Dalit presence in political bodies will not result in effective representation, signifying little more than party tokenism.

Inclusion, Identity and Emancipation

Failing to include different groups, including Dalits, distances those groups from mainstream politics. This may have harmful consequences. Nepalese politics has opened and become fluid ever since the second people's movement brought a discourse of inclusion. Previously disregarded minorities are now expecting and demanding measures for their inclusion. It can be argued that not incorporating such demands in a volatile political context can increase political instability and create a backlash in the process of peace and democratisation. Hopes raised by the second people's movement of Nepal will backfire if inclusion only remains as rhetoric of politicians and tokens made by parties, further alienating marginalised groups from mainstream politics. As Dalits among other frustrated groups do not see their demands being met, they search for alternative perhaps more extreme ways to voice their demands for justice.

Nevertheless, the language of inclusive democracy has become real for the people and its different communities. Indeed, political parties and politicians may continue to struggle for power while governments may rise and fall; it will all take place within a discourse of inclusion. While democracy in Nepal can fail to be responsive to the particular concerns of Dalits and other marginalised communities, it can no longer disregard inclusion in principle. Some disturbances such as

strikes and road blocks, *bandhas*, might take place. Even in the extreme possibility of formation of armed groups that could take place in the continued absence of addressing inclusion through promulgating a new constitution, Nepal will still be the same democratic country. India is home to hundreds of armed groups. In Manipur almost every community has its own armed bands and terrorist strikes are not a new phenomenon in India (Gayer & Jaffrelot, 2009: 4). Still, India remains the largest democracy in the world with a conception of inclusion. The image stands solid.

Different salient identities and characteristics that make up heterogeneous societies have to be addressed and resolved in the political process. These identities, while accompanied with relative deprivation in health, education and income, have been constructed and made relevant through memories and images of past exclusion. Janajati, Madhesi and particularly Dalit have become labels to voice political demands, struggles for equity. Such struggle takes place through the significant 'other'. In Nepal, this has been the Hill community for Madhesi and it has been 'upper caste' Brahmans and Chhetris for Janajatis and Dalits. Essentially, the discourse of inclusion is based not only on resemblance with the social self, but also on differences towards the other.

Demands for Dalit reservations and proportional representation emphasise the difference of being Dalit, even when Dalits struggle for integration, an egalitarian society free from caste-based discrimination and untouchability, rather than political autonomy. Addressing such demands in special provisions, even when intended for the protection, empowerment and advancement of Dalits, stresses the vulnerability of Dalits. In the Nepalese TV serial "Dalan" (2009), Dalits are shown as the most deprived and village loving people who are easily exploited by 'upper caste' landlords. Indeed, such portrayals of Dalit in the media may foster indignation, make their condition more widely known and even let non-Dalits sympathise and fight for Dalit causes. However, by doing so, an image of a victim in continued need of protection lives on. Similarly, affirmative action, special provisions like reservations in education and political institutions, reinforce an image of dependency in the minds of Dalits (and non-Dalits), setting

Dalits apart instead of integrating them in Nepali society. This runs the risk of disempowering Dalits in the long run. While identity politics and positive discrimination tend to stress differences rather than similarities, they are unavoidable, even necessary, to uplift historically disadvantaged groups. If minority rights are utilised to mainstream Dalits, citizenship will become more universal, in accordance with the principle of individual universalism:

The main achievement of nineteenth and twentieth century democracy was to make citizenship more universal: pulling down, one after another, all those barriers that excluded women, people with the wrong religion, the wrong skin colour, or just people with too little property (Phillips, 1995: 12).

Political representation of Dalits has to stress emancipation as its overall objective, the pursuit of human dignity and social justice, to mainstream Dalits in the political process. When Dalits are no longer disadvantaged by virtue of being Dalit, special rights are no longer justified and will even show undesirable. After all, the concept of Dalit, meaning the oppressed, is a symbol of struggle for an egalitarian society, not a label of a 'primordial' community. There is need to recognise fluidity. Compensatory measures to ensure political inclusion of Dalits in Nepal should acknowledge the temporal nature of those measures. However, putting too much emphasis on changeability in special provisions, by for instance making them easier to amend, can be problematic as it fails to take into account the changeability or instability of the political context of a nation in transition.

From 2006 to 2012 Nepal has seen five prime ministers and hundreds of cabinet ministers replacing each other but Dalits repeatedly had to exert pressure to get included on a regular basis. Nepal has to replace exclusionary norms, rules and procedures in institutions with inclusionary ones. Without stable safeguards for the protection and advancement of Dalits and other marginalised groups, it will increase uncertainty about Nepal's future. Ultimately, fluidity has to be balanced by the need for stability. One important mechanism is to have regular evaluation on the effectiveness and continued need for special provisions. Besides stressing temporality by putting an eventual time limit on compensatory measures, emphasising internal diversity of Dalits is another way to recognise fluidity as it can take the edge out of the inter-group boundaries (between Dalits and non-Dalits).

A Society of Hierarchies

Caste hierarchy and untouchability are age old practices, a social order manifested in the fabric of Nepalese society, reflected in the structures of the state. It defines relationships of power and powerlessness (Bhattacharya, 1896; Sharma, 1996; Parish, 2002). Nevertheless, the concept is not so straightforward in Nepal as different villages, towns and cities have different versions or narratives of hierarchy. The exact hierarchy of castes is often contested and distinction is also made based on economic conduct and prosperity. The relationships and status can also transcend caste boundaries even though class continues to overlap with caste. Particularly, there are differences in practices of caste hierarchy between the communities of the plain or Terai and the hills (Pyakurel, 2011). And though the caste system has been treated as an outcome of Hindu religious scripts, untouchability has been practised against artisans and craftsmen without the endorsement of those scripts.

While the caste system has defined social, economic and political life in Nepalese society for centuries, it was first codified in 1854 in the *Muluki Ain* (The Country Code of Nepal, 1854). As mentioned earlier, a classification was made according to the four different caste groups or *Varna* - Brahman, Chhetri, Vaishya and Sudra. Nevertheless, caste hierarchy in Nepal to some extent diverges from the classic Vedic concept (Ghurye, 1932; Srinivas, 1962; Dirks, 2003), mainly to incorporate non-Hindu indigenous communities (Hofer 1979; Pyakurel, 2012). A basic distinction was made between three tiers of the Nepalese social order – *Tagadhari*, *Matwali* and *Pani Nachalne*.⁸

First in the social order was *Tagadhari*, “wearers of the holy thread”. It comprised of the so-called upper castes: Brahman, Thakuri and Chhetri as well as Brahman of the indigenous Newar community of the Kathmandu valley. Second in the order was *Matwali*, “alcohol-drinkers”. They belonged to ethnic tribes and other indigenous communities (Janajati) like Gurung, Magar, Bhote and Tharu. Third and last in the social ladder came *Pani Nachalne*, literally meaning

⁸ This system is not only prevalent in the hills of Nepal, but in the whole of the Himalayan region of both India and Nepal, stretching from Ladakh in the West to Sikkim in the East, see Pyakurel, 2011.

water unsharable, those groups considered impure. In *Panie Nachalne*, further categorisation was made between those castes considered impure but touchable and those considered as untouchable. The former, termed *Chhoyi Chhito Halnu Naparne*, also included Muslims and *Mlechhs* (descendents from Europe). The latter, referred to as *Chhoyi Chhito Halnu Parne*, signified that being touched by such ‘untouchables’ required purification by sprinkling water mixed with gold. This category was comprised of many present-day Dalits. The codification of the caste system in Nepal monopolised power in the hands of ‘upper castes’.

What constitutes as Dalit is not a homogenous group. There are differences in gender, region and caste. The National Dalit Commission (NDC) has currently identified 26 Dalit castes (see table 3).

Table 3: List of Dalit Castes

Hill Dalits		Tarai Dalits	
1. Gaine	8. Kalar	15. Dom	22. Halkhor
2. Pariyar	9. Kakaihiya	16. Tatma	23. Sarbhang
3. Badi	10. Kori	17. Dushad	24. Natuwa
4. Bishwakarma	11. Khatik	18. Dhobi	25. Dhandi
5. Mijar	12. Khatwe	19. Pasi	26. Dharikar
6. Pode	13. Chamar	20. Bantar	
7. Chyame	14. Chidimar	21. Musahar	

Adapted from NDC, 2012

According to the NDC, Dalits comprise of “those communities who, by virtue of atrocities of caste based discrimination and untouchability, are most backward in social, economic, educational, political and religious fields, and are deprived of human dignity and social justice” (NDC, 2012).⁹ Even though the term Dalit has been purposively advanced to signify struggle and while the communities recognised as Dalits have changed over time; being ‘Dalit’ remains an ascribed identity, a consequence of discrimination and deprivation, that goes beyond the individual’s choice or control.

⁹ This definition of NDC is not entirely uncontested. Gurung (2005) argues that the concept should be limited to untouchables only as defined by the old country code.

Dalit castes vary greatly in population size, some comprising over a million while others make up little more than a thousand (see table 4).

Table 4: Segregated Dalit Population of Nepal 2011

Caste	Population	% of Dalits	% of Total Population
Bishwakarma	1,359,975	37.75	5.13
Pariyar	473,862	13.13	1.78
Mijar	374,816	10.41	1.41
Chamar	335,893	9.32	1.27
Musahar	234,490	6.51	0.89
Dushad	208,910	5.8	0.79
Dhobi	109,079	3.03	0.41
Tatma	104,865	2.91	0.40
Khatwe	100,921	2.8	0.38
Bantar	55,104	1.53	0.21
Badi	38,603	1.07	0.15
Dom	13,268	0.37	0.05
Kori	12,276	0.38	0.05
Gaine	6,791	0.19	0.03
Sarbhang	4,906	0.14	0.02
Halkhor	4,003	0.11	0.02
Natuwa	3,062	0.09	0.01
Dharikar	2,681	0.07	0.01
Dhandi	1,982	0.06	0.01
Chidimar	1,254	0.03	0.00
Kalar	1,077	0.03	0.00
Kakaihiya	NA	NA	NA
Khatik	NA	NA	NA
Pasi	NA	NA	NA

Adapted from CBS, 2012; classification is based on NDC, 2012

According to the population census of Nepal, Bishwakarma constitutes the largest Dalit community. With a population of 1,359,975, it makes up 37.75 per cent of Dalits and 5.13 per cent of the total population of Nepal. The largest Dalit community of the Terai is Chamar with a population of 335,893, making up 1.27 per

cent. The smallest Dalit community, Kalar, has a population of 1,077, making up 0.19 per cent of Dalits in Nepal.¹⁰

Two anomalies can be found when comparing the 2011 population data with that of 2001. The Badi community, with a population of 4,442 in 2001 (CBS, 2002), grew incongruously to 38,603 in 2011 (CBS, 2012); while the Chidimar population dropped, almost vanished, from 12,296 in 2001 (CBS, 2002) to 1,254 in 2011 (CBS, 2012). Perhaps the unwillingness to self-identify with certain discriminated castes, like Badi in the past and Chidimar presently, can have a distorting effect on census information. This trend should not be overlooked when considering the affirmative action or positive discrimination, particularly in reservation policies, of certain historically disadvantaged groups.

Geographically, Terai Dalits are more disadvantaged and face more discrimination than Hill Dalits, while receiving considerably less attention in media (Aryal, 2011: 46). This is observable on various human development indicators (see table 5).

Table 5: Development Indicators of Hill and Terai Dalits

Development Indicator	Dalits	Hill Dalits	Terai Dalits
Average per capita Income (USD)	977 per year	1099 per year	743 per year
Literacy	38.02%	45.50%	27.32%
Educational Attainment	0.292	0.349	0.209
Under-five Mortality Rate	90 per thousand	95 per thousand	81 per thousand
Life Expectancy	61.03 years	60.89 years	61.26 years
Human Development Index	0.424	0.449	0.383

Adapted from UNDP, 2009

¹⁰ CBS census report does not mention Bishwakarma, Pariyar and Mijar but continues to mention traditional terms like Kami, Damai and Sarki. Following NDC's list, the population of Bishwakarma has been calculated by adding the Kami community with a population of 1,258,554 and Lohar community with a population of 101,421. Similarly, Pariyar and Mijar are used instead of Damai and Sarki (population data remains the same). While Pasi is mentioned separately in NDC's scheduled castes list, its population in the census of 2011 has been merged with Dushad caste.

The per capita income of Terai Dalits (743 US dollar per capita per year) is considerably low compared to Hill Dalits (1099 US dollar per capita year). In addition, there are significant gaps in literacy and educational attainment. Only on dimension of health do Terai Dalits score slightly better, as seen in their life expectancy and under-five mortality rate. The HDI of Terai Dalits is abysmal (0.383), worse than Hill Dalits (0.449). Furthermore, landlessness, while 15 per cent among Hill Dalits is 44 per cent among Terai Dalits (Adhikari, 2008: 44-45). Overall, it shows the discrepancies, the internal differences, of historical disadvantages between Dalits of Terai and of the Hills.

Caste based discrimination is not limited between Dalits and non-Dalit, it also takes place inside the Dalit community. Both the hill and Terai Dalit community have a hierarchy of castes, revealing the penetration of the caste system in Nepal. Untouchability practices and denial of inter-caste marriage is practiced even among Dalits (Bhattachan et al., 2003). According to a study on Nepali newspapers, almost 10 per cent of offenders of caste-based discrimination were members of Dalit communities (Aryal, 2011: 47).

Dalit castes of both Hills and Terai are associated with traditional occupations. In the Hills, many Bishwakarmas traditionally work as blacksmiths, Pariyars as tailors and musicians while Mijars as cobblers and leatherworkers. Gaines perform as singers and dancers. Newar Dalits, Pode and Chyame, had their own occupations like scavenging and sweeping. Many Terai Dalits also have their traditional occupations. Dhobi washed the cloths while Tatma weaved cloths. Many Chamars traditionally worked as cobblers and Musahars, who catch and eat the rats plaguing in the fields, make bamboo baskets.

Literacy gives a good indication of the state and dissimilarities of human development within the Dalit community. Literacy rates of Dalit castes range from an appalling 7.28 per cent (Musahar) to 46.86 per cent (Gaine). In the Terai Dalit community, illiteracy is especially prevalent among Musahar, Dom, Chamar and Khatwe. Other communities like Dhobi, Chidimar and Halkhot are relatively

more literate, though considerably less than most Hill Dalits. Among Hill Dalits, Badi has the lowest literacy rate (33.53 per cent) (see table 6).

Table 6: Literacy Rates of Dalit Castes

Terai Dalits		Hill Dalits	
Caste	Literacy Rate	Caste	Literacy Rates
Dhobi	34.64%	Gaine	46.86%
Halkhor	31.27%	Pariyar	43.53%
Chidimar	29.93%	Bishwakarma	41.27%
Tatma	23.1%	Mijar	38.33%
Bantar	22.78%	Badi	33.53%
Dushad	19.59%		
Khatwe	19.28%		
Chamar	19.24%		
Dom	9.39%		
Musahar	7.28%		

Adapted from CBS, 2009; classification is based on NDC, 2012

Dalit women are victimised threefold, first for being women, second for being Dalit and third for being Dalit women. They are discriminated against not only by non-Dalit perpetrators, but also by Dalit counterparts. Domestic violence is prevalent and Dalit women face verbal assault, beating and marital rape from, often frustrated and alcoholic, husbands (e.g. Ghimire, 2008; Meghi, 2008). A study on caste-based discrimination in media coverage revealed that 60 per cent of victims are female, while 80 per cent of offenders are male (Aryal, 2011: 48). Gender discrimination is a cause of increased drop-outs among female students. They have to look after younger siblings, labour in the farm and work in the household. This is especially the case among the poorest households. Consequently, female Dalits have been unable to obtain even the most basic education.

Numbers and Beyond: A Model of Political Representation

The interim period has lasted for over six years but the outcome of the political transition is yet uncertain. Repeated extension of the CA in drafting the new constitution, resulting in the eventual end of the CA itself without even delivering a draft constitution, has increased uncertainty about Nepal's future. In a heterogeneous society like Nepal, democracy needs to be based on inclusion (Baral, 2011) for the "realisation of popular needs and aspirations, equitable distribution of resources and social justice" (Upreti, 2012: 8). In the political sphere this has to be ensured through descriptive representation of Dalits and other historically disadvantaged groups.

In the context of Nepal, the dynamics of political representation are not restricted to political presence. Implicitly assuming Dalit representatives can and will always represent the Dalit community can lead to incomplete or false understanding. While bringing Dalit representatives in political institutions of Nepal in proportional numbers is certainly necessary, it is not sufficient for ensuring meaningful representation of Dalits in Nepal. Adding the number of chairs to make 'extra' room in the national or any other elected assemblies, allowing for the political presence of marginalised groups, cannot automatically result in the effective representation of those groups. The debate and assessment of political representation cannot and should not be limited to the size and composition of political bodies.

The debate on political representation of Dalits in Nepal has focused on 'numerical' or 'physical' representation. It has either implicitly assumed or disregarded the benefits of group representation. Besides the normative discussion on the benefits and detriments of proportional representation of Dalits, empirical work on representation concludes that Dalit political presence in Nepal has been very low, virtually non-existent (Dahal et al., 2002: 64-65; Lawoti, 2005; Khanal, 2006; Kisan, 2009; Pyakurel, 2010). Recent studies give rise to more optimism. For instance, Hachhethu and colleagues (2010: 73) conclude that the number of Dalits in mainstream politics, especially in the CA, has

improved. Still, no integrative work has been done to analyse Dalit representation over time. In addition, the current debate on political representation has, to a great extent, failed to include the dimension of quality of representation.

Even when political parties are positive towards inclusion, essential shared experiences and mutual interest of previously disregarded groups are lost if Dalit representatives have no choice but to follow party lines. If a democratically elected CA, in which Dalits are represented in unprecedented numbers, fails to reflect the experiences and interests of the Dalit community, exclusion will continue, albeit in a less visible manner. This could impede legitimacy and accountability of representative institutions in Nepal as Dalits, dispossessed Dalit subgroups and possibly other excluded groups become disconnected with mainstream politics and search for alternative options. Broadening the scope beyond numbers while at the same time accepting the value of group representation is vital in identifying formal and informal mechanisms that foster as well as impede adequate, effective and meaningful representation of Dalits in Nepal.

A model of political representation in Nepal has to take the internal diversity of Dalits into account. There are discrepancies in region, sex, caste and class in what constitutes the Dalit community. It also has to take into account the political arena in which top leadership of major parties control decision-making and where obedience to party policy is enforced by special whips. Only through 1) *Dalit representation in adequate numbers*; 2) *a strong link with inclusion through the inclusion of dispossessed subgroups in the Dalit Community and a mutual relationship of Dalit representatives with Dalit represented*; and 3) *the establishment of a political and institutional space for Dalits and Dalit representatives*, will group representation result in meaningful representation of Dalits in Nepal.

Meaningful representation of Dalits in Nepal

1. Dalit representation in adequate numbers
 - a. Adequate representation in legislative bodies
 - b. Adequate representation in executive bodies.
2. Link with inclusion

- a. Proportional inclusion and preferential treatment of dispossessed subgroups within the Dalit community
- b. Mutual relationship of Dalit representatives with Dalit represented
3. Political Space for Dalits and Institutional Space for Dalit Representatives
 - a. Adequate representation of Dalits in party executive bodies
 - b. Internal democracy and transparency in decision making of political parties
 - c. Institutionalisation of inclusive (Dalit friendly) norms and procedures.

Focusing on numbers only can be seriously misleading. For example, Afghanistan, a country with a history of discriminating and excluding sexual minorities, adopted gender quotas for the legislature in 2005 (Gathia & Hananuntasuk, 2006). Malalai Joya, one female member of the Afghan Parliament, describes the environment in which she has to work:

My microphone has been cut off a number of times when I criticise the situation and want to express my point of view. Once they even physically attacked me inside the Parliament and one of them called [quote] "Take and rape this prostitute" (cited in Dovi, 2009: 1178).

This way, "informal norms create substantial barriers to women's effective representation" (Ibid: 1178). In Nepal, Dalit representatives similarly face difficult circumstances. Rima Nepali, former CA member, discloses her experience:

I am in the leadership, but even friends in the district don't usually let me enter their homes. That creates a sense of inferiority. When I was in the field on party duty, other friends ate inside the house, but brought the food outside for me. I realised that to protest there would adversely affect the party's image, so I quietly gave the food to a dog (cited in Darnal, 2009: 121).

Still, inclusion codified in the Interim Constitution (art. 21, 33 (d1)) does create openings for representatives from different groups to actually represent their respective communities. In December 2011, a 31 year old Dalit man was allegedly killed by two upper caste men in Kalikot (Kantipur National Daily, 14 December 2011). After the incident Dalit CA members obstructed the house and issued for

demonstrations and roadblocks. In the end, the government responded by compensating the victim's family. In May 2012, Madhesi and Janajati members of the CA vowed to join hands for their demands of federalism in the draft constitution, rebelling openly against party positions. They were prepared to 'cross over' and disregard party whips. Responding to this episode, Pradeep Gyawali of CPN-UML stated that "such defiance weakens political parties and invites anarchy" (The Himalayan Times, 10 May 2012). It is obvious that political parties should function as an intermediary between society and the state by aggregating different demands into coherent policy. The question is whether political parties are truly weakened if their elected representatives choose to represent their communities in addition to party position. It would seem that parties will truly be weakened if they refuse elected representatives to speak out and perform their essential function of representing the nation and its different communities. After all, representatives from Dalit and other marginalised communities of Nepal need to represent and speak for their communities to ensure inclusive democracy in Nepal.

As Dalits in Nepal are starting to get visibly represented across different political institutions, it becomes appropriate and necessary to look at, beyond and within the proportion of Dalit representation. It is essential for mainstreaming Dalits in the political process. What about the number of Dalit women, Terai Dalits or castes within the Dalit community? Do Dalit representatives from different walks of life actually communicate and interact with their community and different subgroups? Do they overcome persisting prejudices and try to resolve tensions between representing their community and their political party in the political arena? As a new Nepal struggles to emerge from the horizon, these questions gain importance.

Chapter 2

MEANINGFUL REPRESENTATION: CONNECTING THEORY WITH NEPALESE DALITS

Political bodies can present delegates of diverse backgrounds and characteristics across sex, race, ethnicity and caste. They can also fail to do so. Descriptive representation is concerned with the similarities of political agents with those they represent, whether groups are and should be represented by their own members. Coined by Griffiths and Wollheim (1960: 188), the concept was first incorporated into a theory of political representation by Pitkin (1967) and has subsequently been developed as a contextual argument in favour of group representation (e.g. Sapiro, 1981; Phillips, 1995; Williams, 1998; Mansbridge, 1999). It is seen as manifested in the composition of political institutions, as visible in the presence in numbers.

It would seem that if groups of all backgrounds and characteristics are embraced, the political setting will be and serve as a microcosmos, echoing all citizens' voices and reflecting society as a whole. However, group membership can in principle be classified on any characteristic or background supposedly defining resemblance. By the late 1960s the U.S. civil rights movement developed into the women's and feminist movement. Gradually, the question who could best represent women diffused into questions on who can speak best for women of minorities, lower socio-economic status and different sexual orientation:

If she is a white, straight, middle class mother, she cannot speak for African American women, or poor women, or lesbian women, on the basis of her own experience any more than men can speak for women merely on the basis of theirs (Weldon, 2002: 1156: 10, original emphasis)

Once men were dislodged from their role of speaking for women, the problem of who can speak for others was also being addressed within women groups. This problem can supposedly be solved through lottery, giving a 'statistical representative sample' (Phillips, 1995: 3), ensuring that the composition of political institutions will be a typical sample of the various identities and interests spread throughout society (Callenbach and Phillips, 1985; Mansbridge, 1999). But this can either lead to seemingly pointless representation: "common sense rebels against representing left-handers or redheads" (cited in Mansbridge, 1999: 634) or even show undesirable: "no one would argue that morons should be represented by morons" (Pennock, 1979: 314). In addition, it is difficult to imagine a political setting large enough to reproduce an exact mirror of society that contains representatives of all imaginable characteristics and backgrounds. Even if such an arrangement is possible, its sheer size would make it incapable of effective deliberation and coherent decision-making. Analogous to building a model of a bridge scale one on one (or one in two), it would lose the value of having representation in the first place.

So how should a group be constituted to make resemblance significant and when is descriptive representation justified? Rather than being confined in the composition of political institutions, descriptive representation takes place when political actors stand for, speak and act on behalf of similar others. By this definition, descriptive

representation is linked with what representatives are as well as with what they do for the represented, both symbolically and substantively. Political representation can, by this conceptualisation, be evaluated in the composition of political bodies, policy responsiveness of representatives as well as institutional approval and participation of represented. From a systemic perspective, this method retains accountability as it can broaden the scope of accountability of democratically elected institutions to more segments of society (Mansbridge, 2003: 520-522; Dahl, 1989). In addition, descriptive representation will retain some of the traditional 'dyadic' form of accountability (Mansbridge, 2003: 515-516, 520-522) where voters can reward or punish their representatives by evaluating the mandate that was given to them. This way, group representation is reconnected with institutional legitimacy and democratic accountability.

Speaking for others is undeniably problematic (Alcoff, 1991), either intentionally or unintentionally distorting discourse in favour of those with louder voices, while including more voices in the political arena can suppress the voices of others (Young, 1997: 350). This is a fundamental shortcoming of all representation. Then again, refusing to speak at all can be far worse. Silence leaves everyone's political voice to their own and principally accepts existing inequalities as given and unchangeable. Ultimately, when some others are more 'other' than others, resemblance between representatives and represented can help minimise the problems of standing, speaking, and acting on behalf of all others. In the context of Nepal, Dalits have been among those silenced 'other' voices.

Justifying Descriptive Representation

In a political environment where discrimination and favouritism are the norms and structural barriers have been created and maintained by the state, some citizens' voices will be profoundly silent, even after they have stopped being silenced. In such a context, universal political rights cannot by themselves overcome those barriers. While giving every member of the polity seemingly the same opportunity to participate (Taylor, 2010), individual rights overlook the existence of unequal

power relations and asymmetrical distribution of resources between groups (Kymlicka, 1995; Young, 1990). The 1990 Constitution of the Kingdom of Nepal stipulated basic civil and political rights founded on the principle of individual universalism. The right to vote, run for office, assemble and form a political organisation were instated. But without addressing the existing poverty, landlessness, illiteracy as well as other disadvantages Dalits face, the members of the Dalit community, while equal before the law, did inevitably not have equal opportunity in enjoying their rights.

When the polity fails to connect with entire segments of the public, neglecting their perspectives and opinions, it undermines political equality and democratic accountability. Representative politics will at the very least not be fully inclusive, weakening the principles on which it is supposed and assumed to be based.¹¹ In the worst of circumstances, elected institutions will appear as masquerading theatres for the world outside while camouflaged bunkers for those within, showing perceived legitimacy as it shields those who continue to oppress. Distanced from mainstream politics, some groups may be forced to search for alternative ways to articulate their political demands. This can result in sustained protests, strikes and riots, and in some cases even escalate in acts of terrorism, mass killing or insurgency (Harris and Reilly, 1998; Schedler, 1998). Not only will any such act be detrimental for the political stability in a country, it could also end up costing the lives of many and the suffering of more. Descriptive representation can help overcome these obstacles by giving extra say to otherwise unheard or ignored voices, opinions and perspectives, thereby compensating for past injustices (Phillips, 1995; Phillips, 1998).

With a common history of deprivation and a collective memory of discrimination, some groups share deep-rooted experiences of their exclusion. Fellow group representatives, through these shared experiences, are more orientated towards their community members who in turn identify more with their representatives and by association the institutions they inhabit (Mansbridge, 1999; Kymlicka,

¹¹ Inclusion in the decision making process is a defining part of democracy, see Dahl, 1989; Dryzek, 1996. For a discussion on inclusion related to descriptive representation, see Young, 2002.

1993). Other representatives ultimately lack the understanding and involvement that come from such lifetime experiences, even when supportive to their cause. Consequently, representatives from 'historically disadvantaged groups' share an interest crucial for integrating those groups in mainstream politics (Mansbridge, 1999; Phillips, 1995; Williams, 1998). In the words of an African American legislator:

When I vote my conscience as a black man, I necessarily represent the black community. I don't have any trouble knowing what the black community thinks or wants (cited in Mansbridge, 1999: 634).

However, historical disadvantages must not be equated with political exclusion as this cannot by itself justify group representation. This would make the entire argument circularly and potentially self-serving. Following this logic, 'idiots' and 'lazy people', notably absent in political institutions, can be classified as politically excluded groups. Based on a shared characteristic of being 'indolent' or 'idle', such groups could demand measures for their inclusion. The concept of historically disadvantaged groups is inherently multidimensional and complex, making its application challenging. Still, this can be resolved by specifying the terms of exclusion.

The exclusion of historically disadvantaged groups should be both systematic and structural. It should be seen socially in discriminatory norms, discourses and practices, leaving memories to those subdued over generations. In addition, it must be observable in human development across economic, educational as well as political dimensions that reveal a history of deprivation. Furthermore, exclusion has to be based on an identity or characteristic beyond the holder's choice or control. When individuals decide to let go of their political rights by not voting or even committing crime, it is not by itself the result of contextual or historical disadvantages. These circumstances justify actions aimed at disabling the chains that prevent denizens from obtaining the rights and responsibilities of true citizens.

An exception is when ascribed characteristics are innately related to inability to rule, in case of those mentally impaired. Inability to ever meet the minimum requirements for citizenship is not about historical or contextual disadvantages, but about innate ones. It should not have

to be noted that while in specific contexts racial, ethnic, sexual and caste minorities can on average be less formally educated and skilled, it is in no sense related to the abilities and talent of members of such groups. It can therefore never be an excuse to exclude, neither intentionally nor unintentionally, from social, economic or political life.

Descriptive representation contributes in mainstreaming historically disadvantaged Dalits, who share a history of deprivation and a collective memory of discrimination. When political actors stand for their similar others it helps to link those groups with representative politics symbolically. Members of deprived communities can relate to the representatives they resemble and by association the institutions and setting they inhabit. At the same time, seeing fellow group members in positions of power, formerly held exclusively by those over representing, helps to disassociate politics with dominant groups, either actively or through inaction responsible for the status-quo. This contributes in reconciling differences in society (Swain, 1993) as increased involvement of previously marginalised groups provides a platform for more equal interaction.

By promoting empowerment, trust and participation of formerly disregarded groups, descriptive representation enhances political legitimacy (Williams, 1998; Mansbridge, 1999) and fosters political stability (Dahl, 1961; Almonds & Verba, 1965). Group representatives serve as role models for those they can represent. Merely by being visible in positions of leadership constructs “a social meaning of ability to rule” (Mansbridge, 1999: 648-649, 651) where this has been seriously questioned, building the capacity to take active part in state governance (Phillips, 1998; Swain, 1993). In addition, visible political presence fosters trust in groups that in the past felt alienated, both in the specific institutions in which fellow group members are represented as well as in representative politics in general. This in turn increases political participation¹² in for instance propensity to

¹² Political participation refers to “any of the many ways in which people can seek to influence the composition or policies of their government”, see Hague & Harrop, 2007: 165. This can be classified in conventional participation in voting and activities in political parties and unconventional participation in protests, blockades, terrorism or even insurgency.

vote and enhanced communication with fellow group representatives, replacing apathy with involvement in democratic institutions.

Most empirical work confirms the relationship between descriptive and symbolic representation (Gilliam, 1996; Gay, 2002; Pantoja & Segura, 2003; Schwindt-Bayer & Mishler, 2005, Whitby, 2007; Scherer & Curry, 2010). For example, Pantoja and Segura (2003) conclude that descriptive representation results in reduced feelings of political alienation among Latinos in the United States (US). Whitby (2007), by exceptionally utilising voter turnout rather than survey data, similarly finds that descriptive representation of African Americans in US Congress enhances political participation by increasing their propensity to vote. Recently, Scherer and Curry (2012), uniquely employing an experimental research design specifically addressed to find causation, conclude that more African American representation in the US enhances institutional legitimacy by increasing African American approval of the institution they inhabit.

In Nepal, the presence of Dalits in political institutions has similarly enhanced representation and political empowerment of Dalits symbolically. When Hira Lal Bishwakarma became the first Dalit minister of Nepal in 1984, many members of 'Kami' caste a demeaning term literally meaning iron worker, changed their surnames to Bishwakarma [Vishwakarma], a name that did not carry such negative connotations:

All of us still remember that [the surname] Bishwakarma was not there thirty years ago. Once Hira Lal Bishwakarma became Minister, everyone from that community started writing Bishwakarma (cited in Cameron, 2007: 18).

And recently, the visible representation of Dalits in the Constituent Assembly (CA) has broken the myth in Nepalese society among Dalits as well as non-Dalits that Dalits cannot rule:

Earlier others used to take decisions for Dalits and the official machinery never implemented them. But now, the Dalits themselves are sitting in institutions of power, and are taking and implementing decisions on their own (Kumar 2008: 294, emphasis added).

Substantively, when representatives of historically disadvantaged groups speak and act on behalf of those they resemble, it will result in additional policy initiatives and outcomes that serve in the

best interest of citizens that constitute those groups. Since those representatives share a common history of deprivation and a collective memory of discrimination that other representatives lack, they include 'overlooked interest' (Phillips, 1995) and 'un-crystallised perspectives' (Mansbridge, 1999). Consequently, descriptive representation will result in more comprehensive deliberation and inclusive policy responsiveness, enhancing the democratic accountability of elected institutions. Law enactments and implementation will go beyond broad provisions and will address deprivation, discrimination and exclusion specifically, appropriately and effectively, gradually integrating denied groups in the structures of the state and the fabric of society.

Most research, especially in the US, confirms the connection between descriptive and substantive representation (Bratton & Haynie, 1999; Canon, 1999; Baker & Cook, 2005; Owens, 2005; Grey, 2006; Preuhs & Hero, 2011; MacDonald & O'Brian, 2011). In fact, African Americans, women and Latinos are more responsive to their respective group interest than delegates from other communities (Ibid.). Preuhs and Hero (2011) have recently shown by incorporating the role of ideological cueing that Black and Latino representatives are not only more responsive to their group interest than other representatives, but that "each group's descriptive representation also brings unique perspectives to the aggregate decision making process". The activities of these representatives are more orientated towards their communities on the liberal-conservative scale dominant in US party politics *and* offer differing cues that exclusively address the particular interest and circumstances of those communities.

In the case of India, constitutional provisions have endorsed reservations for Dalits in political institutions and quotas for education and jobs. This is seen as having produced a 'social revolution' (Austin, 1999) by mainstreaming Dalits into different streams of national life, including political. This is only possible when those that are picked up by reservations and quotas make a substantive contribution. Jagjivan Ram, a Dalit who holds the record of longest serving cabinet minister in India being appointed as minister in Jawaharlal Nehru's provisional government as early as 1946, argues that the Harijan elites, the elected legislators have played a positive role in bringing about social change

among the Dalit masses (Sachchidanand, 1977).¹³ He further asserts:

My holding of a high position in the government has definitely helped the cause of Harijans. I have been instrumental in getting money for several institutions. I have helped many individuals in their careers. I have pushed many legislations relating to Scheduled Castes through Parliament. I have used my power to help the Harijans as much as possible...they now resist exploitation. That is partly due to political participation (Aggarwal, 1983: 270-271).

Dalit representation has contributed in bringing formerly marginalised groups in governance and has redistributed public resources and benefits to the Dalit community of India. As Hasan (2009: 229) states these initiatives “are primarily aimed at changing the social composition of public institutions and the elite who control them”, and have resulted in an “increase of these groups’ presence in education and public institutions without which they would have remained ‘outside the power structure’”. Furthermore, as ‘lower castes’ have started joining the urban middle classes, it has increased social mobility in India (Ibid.: 396). Ignoring the demands and interest of Dalits has become more difficult.

Since 1950, India has enacted and implemented many laws and initiatives for the protection, empowerment and advancement of Dalits. In 1995, 17.2 per cent of jobs were held by Dalits (Shankar, 2007), which is greater than the proportion of Dalits of the Indian population. Of the highest paying and most senior jobs in state governance and government controlled enterprises, over 10 per cent were held by members of the Dalit community in 1995, a tenfold increase compared to 1955 (Singh, 2009). For the last 15 years Dalits have been elected in the highest political offices. In 1997, India democratically elected K.R. Narayanan as the nation’s first Dalit president. Some human development indicators of Dalits in India like life expectancy, educational attainment and access to drinking water, have been equivalent to the national average since 2001 (Desai & Kularkni, 2008).

The symbolic and substantive effects of descriptive representation, while distinct, are interrelated. The visible presence of representatives from historically disadvantaged communities will enhance political

¹³ Harijan is a term put forward by Mahatma Gandhi before the use of the term Dalit. Harijans mean ‘children of god’.

legitimacy directly, regardless of their actual activities. Nevertheless, trust and involvement will be consolidated and further enhanced in the long run when groups see presence reflected in more inclusive policy as well. Similarly, when such groups communicate more with their political delegates and participate more in elected institutions, it will eventually be easier for representatives to speak and act on behalf of those they signify. This way, descriptive representation creates a virtuous cycle of trust, policy responsiveness and participation of previously marginalised groups in mainstream politics.

For Dalits in Nepal, three basic conditions have to be met for meaningful representation: 1) representation in adequate numbers, 2) a strong link with inclusion, and 3) sufficient political and institutional space.

Representing in Adequate Numbers

The first condition for meaningful representation of Dalits in Nepal is representation in political institutions in adequate numbers, either proportional or a form of constructive over representation. This is essential to ensure that Dalits can inhabit the relevant standing and working committees, bring in different Dalit voices, perspectives and interests and create enough leverage to set the agenda and press for Dalit issues. As Dalits in Nepal have been extremely excluded and are relatively unfamiliar with formal procedures and informal norms of political institutions, it perhaps makes more than proportional representation appropriate. This can be secured through a mixed or proportional electoral system (proportional representation of groups should not be confused with the proportional electoral system) that stipulates the principle of accommodation and power sharing in addition through reservations and quotas in the constitution, general laws and party provisions.

Historically disadvantaged groups need to be represented in adequate numbers to create sufficient room for representatives to function. Proportional representation (of groups) can help deliver and safeguard the benefits that similarities between representatives and represented make possible. A group is proportionally represented

when the relative number of descriptive representatives in political bodies is equal to the relative population of that group. In principle, group representation can encompass only one such representative since the concept is concerned with similarities and does not deal with the number or proportion of group representation. However, including a less than proportionate number can be inadequate to inhabit different standing and working committees in the legislative bodies, bring in internal diversity, and set the agenda for representatives of communities unfamiliar and unaccustomed with the formal and informal procedures of decision making.

Critical mass theory argues that a limited number of descriptive representatives will not result in increased policy responsiveness. Only when an adequate number, a 'critical number', are included will descriptive representation result in substantive group representation (Gray, 2006). Not only does proportional representation make this possible, it also provides the relative number of seats that would have been received if the group had not been historically disadvantaged. This way, no significant groups will be left either systematically over or under representing, eventually removing all association of politics with dominant groups. In contexts of extreme exclusion or when the relative population is not substantial enough, a more than proportionate number may be required as a more temporary measure to produce such a critical mass.

There are different formal mechanisms that influence the number of group representatives, involving the institutional rules and procedures through which representatives are chosen (Pitkin, 1967). The constitution plays a pivotal role since it is responsible for outlining the structure of the state, including the electoral system, districting and possible reservation. Historically disadvantaged groups are usually the minority. A proportional electoral system, Proportional Representation (PR), where seats are given in accordance to the percentages of votes, is therefore more inclusive than a majoritarian or First-Past-The-Post (FPTP) electoral system, where the winner or majority takes all. As no party is normally able to secure a majority in a proportional system, it compels the formation of coalitions and the building of consensus. In a majoritarian system policy making is

usually more transparent as it is easier for voters to hold their locally elected representatives accountable. Nevertheless, it tends to foster corruption and power abuse when permanent majorities cannot be held accountable by permanent minorities (Guinier, 1994).¹⁴

To overcome the problems that durable minorities face in a FPTP electoral system, electoral constituencies can be arranged or rearranged in such a way that minorities become the majority (or largest group) in some of the newly marked constituencies (Canon, 1999). This is, however, only possible when groups are at least partially concentrated geographically. Dalits, while constituting a significant section of the population of Nepal, are geographically dispersed making 'conscious electoral districting' an impractical approach for ensuring adequate representation.

A key shortcoming of the emphasis on electoral system and districting is that it mostly addresses the election of pre-given candidates. It reveals little about the selection procedures of candidates for political office before elections in political parties and after elections in the cabinet. It is therefore blind to the distortions in party choice and listing. Nepal's own experience, even in the much applauded inclusive CA, the body that was assigned with writing a new constitution, is that "often the seats were filled by representatives of castes or Janajati groups who would be well represented anyway." (Butenschon & Volla, 2011: 148). Such distortions can be severe when groups do not have a party that specifically and uniquely addresses their demands. In this regard, party lists and posts in the cabinet in a proportional electoral system can still prove exclusionary without safeguarding group representation in laws. Reservations in the constitution for scheduled groups guarantee the political presence of historically disadvantaged groups directly. Besides provisions for proportional or constructive inclusion in the constitution, specific quotas or targets can also be arranged by means of other institutional procedures, for instance in general law, party constitutions and party

¹⁴ Lijphart (1984: 22-23) has argued that majority rule is not only undemocratic, but also dangerous as minorities that are continuously denied access to decision making will feel excluded and rightfully lose their allegiance to the government. He stresses the need for power sharing or consensus institutions for heterogeneous societies, including a proportional electoral system, to ensure the representation of minorities.

procedures. Such procedures may also need to be targeted specifically for the executive in addition to the legislature, in particular the cabinet, as well as in the executive bodies of political parties.

In Nepal the national legislature has been particularly weak, while the executive has been strong. Strong executives in parliamentary systems as in Nepal are not uncommon as top elected leaders of major parties can join the cabinet, but the case of Nepal has been extreme. Between 1990 and 2002, out of 296 laws passed, only three were initiated outside the executive branch (Lawoti, 2010: 29). Most of the decision making begins and ends with central executive and planning agencies even though this (including the national budget) formally requires approval by the national legislature. Here, the presence of Dalit is either nil or negligible. In fact, the executive is allowed to reallocate administrative funds between ministries without legislative approval. This obstructs the legislature in Nepal in its ability of scrutinising the government (Rourke, 2010). Consequently, adequate representation of Dalits in national level politics has to be guaranteed in seats in legislation as well as appointments in the cabinet.

Those already represented in political institutions will contend that including others will impede the quality of representation while those excluded will contend that the quality of representation depends on their inclusion. Imagine you are waiting at the bus stop. There is a big event just outside the city where you and, of course, many others want to go. After some time the bus becomes visible from the distance. But when the bus arrives you are confronted with a seemingly full bus. When you ask others to make room, they deny your request, stating that the bus is full while claiming that they were there first. Eventually, with the other frustrated individuals that are left outside, you forcefully make your way into the bus. The bus is now more crowded, some have been pushed outside and others are unable to get seats, making the ride more uncomfortable. Then the bus comes to the next stop and other people waiting outside need to get inside the bus to reach the destination. Now you realise that the same persons you were waiting with and had demanded a place in the bus at the previous stop, now exclaim that the bus is full and that they were here first.

A central debate, especially with regard to reservation policy, is concerned with the merits of compensatory measures intended to ensure adequate representation (in numbers). When criteria other than competence direct the selection process for the central institutions of governance or other institutions for that matter, it diminishes deliberation, accountability, and efficiency. Since resemblance will be valued above the skills and abilities of representatives, they will no longer be held accountable for serving the common good. Political representation will be evaluated on what representatives are and no longer on what they do for represented. The quality of democratic institutions can and will no longer be assessed on how they function, only on how they are composited. Subsequently, a politics of visible presence, numerical or physical representation, will take precedence over a politics of ideas, seriously impeding accountability and prosperity in the long run (Swain, 1993: 73).

The critique on formal reservation ignores preferential treatment, 'informal reservations', enduring in political contexts where affirmative action needs to be discussed in the first place. The existing and continuing over representation of some groups is ultimately not founded on merit but rather on partiality and nepotism (Dovi, 2009), either through patron-client relations in political parties or through personal and kin relationships. While dominant groups on average are higher educated than historically disadvantaged groups thereby making the selection of representatives seemingly founded on the basis of merit, the continued dominance of privileged groups in fact reduces efficiency and impedes prosperity now and in the future. Such an arrangement essentially neglects the actual and potential perspectives, skills and abilities of entire segments of the population.

Merit is not only about existing capabilities but also about potential talent in society. In certain settings such potential has been kept outside the gate of quality education, job opportunities and policy making. Ultimately, the polity will only truly serve the common good when it stops rejecting and ignoring whole sections of the citizenry. While assessing representatives on what they are rather than on how they perform can be a problem of group representation, the problem is much greater in an environment where only some cling to power

and cannot be fully held accountable by those excluded. This fosters corruption, power abuse and potentially political instability as those that remain in the margins may seek retribution beyond the confines of the state. In addition, by conceptualising descriptive representation as the way political actors stand for, speak and act on behalf of similar others, the characteristics and identities of representatives that make up the political setting can be reconnected with the symbolic and substantive advantages for their fellow group members.

The goal of political representation should be making citizens' voices, opinions and perspectives 'present' in the policy making process (Pitkin, 1967). If this is achievable by ensuring basic political rights rather than through additional group rights, measures intended to alter the composition of political institutions will be neither necessary nor justified. But when the values of some groups in society dominate and are permanently overrepresented in the political sphere, it overshadows the possibility of a politics of ideas and some citizens' voices, opinions and perspectives will remain notably absent rather than present. Broadening the participation and representation is a vital stage in negating this process. After all:

Without a due share in political power, what confidence can members of a minority have that their cultural rights will be protected, or their material needs and distinctive circumstances attended to, or that they will be accorded recognition and respect by the majority community? (Beetham, 1999: 112)

Descriptive representation should be compensatory in nature and intended to emancipate Dalits residing in Nepalese society, a political means to an end. If such an unchained society is indeed the goal, ensuring adequate representation will advance democratic accountability and institutional legitimacy as well as peace and prosperity today and in the future. Once the process of emancipation has reached sufficient momentum, such measures will no longer be needed or desired. Individual rights will from that moment on be able to safeguard equal opportunity, naturally bringing back a politics of ideas. The words of B.R. Ambedkar remain striking:

The patriot's one cry is power and more power for him and for his class. I am glad that I do not belong to that class of patriots. I belong to that class which takes a stand on democracy and which seeks to destroy monopoly in every shape and form. Our aim is to realize in practice our ideal of one man one value in all walks of life, political, economic and social (cited in Das 1963:27).

Linking with Inclusion: Mutual Relationship and Dispossessed Subgroups

The second condition for meaningful representation is a strong link with intra-group inclusion, a mutual relationship of representatives with represented and inclusion of dispossessed subgroups. A mutual relationship between Dalit representatives and Dalit represented has to be guaranteed through good communication and interaction with Dalit represented across different regions, sex, and castes. This will minimise role ambiguity and ensure the continued connection of Dalit politicians with their community. In addition, dispossessed subgroups that score particularly low on human development indicators and face multi-faceted discrimination - Dalit women, Terai Dalits, and certain castes within the Dalit community like Musahar, need to be included in political institutions in proportionate numbers through reservations within reservation. For Dalit subgroups with a low population (e.g. Badi), quotas may need to go beyond proportional inclusion through preferential treatment. By including such dispossessed subgroups, Dalit representation will be more complete, not only in combating deprivation and discrimination of all Dalits, but also in tackling intra-Dalit discrimination on the basis of caste and gender. Open communication and good interaction together with subgroup inclusion will safeguard against the problems of increasing disparities inside the Dalit community. At the very least, it will foster the formation of a more egalitarian Dalit elite through fair circulation among class, caste, region and sex.

The fact that representatives resemble represented in sex, race, ethnicity or caste will not automatically result in the former always able or willing to act in favour of the latter: “if the presumption is that all women or all black people share the same preferences and goals, this is clearly – and dangerously – erroneous” (Phillips, 1995: 157). Indeed, the relationship seems to be complex rather than straightforward even though ‘some kind of relationship’ unquestionably exists (Weldon, 2002; Childs, 2004).

While most researches confirm the connection between descriptive and symbolic representation, there are differences in degree. For

example, Gay (2002) shows that while group representation does increase contact between African American constituencies and their descriptive representatives, perceptions of institutions do no change, making the association with institutional legitimacy complicated. The assumed link of political presence with the perceptions and behaviour of citizens towards mainstream politics will depend on the context, on the nature and severity of group exclusion. In contexts of recent and extreme exclusion, as is the case for Dalit in Nepal, the visible presence of group representatives from previously disregarded communities can be more significant, greatly fostering empowerment, trust and participation of these groups in democratic institutions. In other settings where exclusion has become less salient, the effects, while still noticeable, will be less. The relationship will also be influenced indirectly by the policy responsiveness of representatives towards their similar others. If expectations, raised by seeing fellow group members in positions of power, are not met by policy initiatives and outcomes put forward to structurally elevate depressed lives, visibility can backfire and result in cynicism, further igniting distrust and alienation in the long run.

Similarly, there is an empirical divide regarding the nature of the link between descriptive and substantial representation. Most research on historically disadvantaged groups in the US confirms a strong relationship (Bratton & Haynie, 1999; Canon, 1999; Baker & Cook, 2005; Owens, 2005; Grey, 2006; Preuhs & Hero, 2011; MacDonald & O'Brian, 2011). Studies in other contexts, e.g. United Kingdom (UK), Canada and South Africa, show a less straightforward relationship between group representation and policy responsiveness (Tremblay & Pelletier, 2000; Childs, 2006; see also Trip et al., 2006; Bauer, 2008). It seems that in countries where party discipline is low, as is the case in the US, the relationship seems to be stronger than in countries where party discipline is high, like UK and Canada. While this is by no means a systematic comparison, it is indicative. The empirical literature suggests that benefits of group representation in mainstreaming historically disadvantaged groups, while given, are to a certain extent conditional rather than evident.

Representatives from historically disadvantaged groups need to be selected not only on their resemblance with represented, but also on their link with inclusion. One limitation of group representation is that the experiences of representatives with group represented are only “partially” shared (Weldon, 2002; Childs, 2004). Indeed, such groups share vital experiences that need to be included in the political process. However, representatives do not share all the experiences of deprivation and discrimination of all members that make up the group (Bickford, 1999; Young, 2002). The way representatives stand for, speak and act on behalf of similar others will depend on the mutual relationship between political actors with the represented from marginalised communities and subgroups they resemble. Consequently, group representatives need to engage with their descriptive constituencies:

Descriptive representation should be judged by who does and who does not interact with them. Assessments of descriptive representation need to consider these representatives reach out to (or distance themselves from) historically disadvantaged groups (Dovi, 2002: 736).

By interacting with fellow group members and having clear communications the barriers of partially shared experiences can be significantly reduced (Childs, 2006; Weldon, 2002). Connecting Dalits with their representatives, who they are and what they do, through interaction, will increase familiarity and trust of Dalit citizens in their delegates and enhance involvement in mainstream politics. At the same time, enhanced communication of Dalit representatives with Dalit represented of all sexes, regions, castes and backgrounds will result in more complete deliberation and enhanced policy responsiveness. This will further enable representatives with a mandate to represent their community, to include previously disregarded perspectives, voices and interests.

Stressing the need for group representation creates the obstacle of essentialising the identities of citizens and politicians that make up the polity. It can deepen the cleavages between groups while internal differences are disregarded as those groups become labelled in terms of primordial belonging and their political identity seen as static and uniform (Buchignani & Letkemann; 1994; Sollewijn Gelpke, 2011).

Any special rights given to groups can be seen as their 'natural rights'. Assuming historically disadvantaged groups have clearly defined and unchanging identities that apply for all members in the same way will reinforce pre-existing differences while it overlooks inequalities within the group (Bickford, 1999; Gould, 1996: 182). As a result, identity based politics may become entrenched. Nevertheless, mainstreaming marginalised groups in the political process requires some form of classification, who is member and who is not.

The liberal-individual mode of citizenship (Minow, 1987) underlines that only individual equality, by principally discounting all differences between and within groups, will create an environment in which group boundaries become irrelevant for political representation. Identities will cross-cut across groups, replacing overlapping identities that reinforce differences, eventually dissolving systematic inequalities. However, as argued earlier, the individualistic universal notion of disregarding differences between groups neglect persisting asymmetrical distribution and access to resources that reinforce pre-existing identities. In contexts of systematic and structural exclusion such differences cannot be resolved by turning a blind eye.

The post-structuralists position stresses the fluid, diffuse and temporal nature of identity and argues that no group boundaries can or should be fixed (Bordo, 1990). Such constructions will only prolong perceived differences between groups. But the problem of putting too much emphasis on fluidity is that it leaves no opportunity in setting any standard for emancipation or criteria for inclusion. The fundamental questions of "who is excluded" and "whose voices, perspectives and interests need to be included in the political setting" cannot be resolved without the question "who constitutes the historically disadvantaged group".

Should objective criteria be set or can the selection of descriptive representatives be best left open for members of the respective group? The problem with leaving the responsibility entirely in the hands of group members is that it fails to address unequal access to resources within the historically disadvantaged group. Those subgroups with better social standing, higher education and more wealth can monopolise reservations in state governance, limiting the benefits

of group representation. Self-appointments for political office may advance only the few while the exclusion of many continues. Indeed, without the prospect of emancipating the most excluded members of the community, without representation having a strong link with intra-group inclusion, group representation will make little sense.

Histories of deprivation and memories of discrimination not only differ within the Dalit community and between Dalits and non-Dalits, they can also change across generations. This might happen when second and third generation leaders have less shared experiences of marginalisation as well as common interest with their community. In India, the political culture has greatly vitiated over the last few decades as politics has become a vocation of employment rather than a vocation of commitment. Politics often deviates from the common purpose and moves in a disappointing self-serving direction:

The political leaders in general and the elected representatives in particular are not free from the various kinds of vices. They have become more self-centred instead of people centred, and when they articulate the issues related to the people's welfare, protection and development, their articulation is often guided by politics or political calculations of the leaders and not that of the spokespersons or statement of the people (Ram, 2008: 21-22).

Dalit representatives have not remained an exception. They have been termed as an 'elite' (Sachchidanand, 1977) and even called 'Dalit-neo-Brahmans' (Parvathamma, 1989: 128-144) based on the way the established Dalit politicians represent or fail to represent the Dalit community. Some Dalit leaders have been behaving towards the Dalit masses similarly as 'upper castes' have traditionally been behaving towards the Dalit populace, exploiting them and treating them as 'untouchables' (Parvathamma, 1989). Srinivas and colleagues (1990) state that the political process in India not only failed to erase divisions between castes groups but actually provided new opportunities for exploitation, continuing deprivation, discrimination and exclusion within the Dalit communities.

Group rights cannot help but emphasise distinctions between classes of citizens. It thereby risks of falling into a trap of accepting double standards in citizenship. However, without any prospect of integration and emancipation of historically disadvantaged groups

these risks will be far worse. Leaving inequalities, embedded in the fabric of society and the structures of the state, unaddressed, will only serve the status quo, giving free reign to dominant values (Kymlicka, 1995; Young, 1989). Differences will endure, but less openly and visibly.

In some contexts the creation of a level playing field for all, regardless of sex, race, ethnicity and caste, obliges prioritising group rights over individual rights. In essence this does not contradict the principle of universal equality, it merely differs on the means how to achieve this. Only by protecting the rights of groups can individual equality be ensured. It safeguards the fundamental rights of members of those groups that have been denied such essentials, and only as long as there is exclusion. Once the pursuit of emancipation has reached sufficient momentum will individual rights truly guarantee the equality of each and every citizen. In the end, a limited form of 'strategic essentialism', essentialising in practice but acknowledging fluidity in theory (Bickford, 1999: 87), seems to be the best practical solution.

One strategy in limiting the problem of essentialising identities is by stressing the temporal nature of compensatory measures, of special provisions, taking into account a country's specific historical context. Compensatory measures should ideally stress fluidity rather than rigidity. Quotas in the constitution, quotas in laws and quotas in party constitutions are more difficult to change and adapt to changing circumstances than targets in laws and party decisions (Mansbridge, 1999; Kymlicka, 1993). *Ceteris paribus*, targets for historically disadvantaged groups in informal decisions are preferable to rigid quotas in the constitution. The former gives beneficiaries the impression that those measures are not a natural right and will be there only as long as they are necessary and justified. This minimises abuse and misappropriation.

In contexts of extreme and recent deprivation and discrimination, however, where informal procedures still favour dominant groups in society, fluid measures will neither be sufficient nor appropriate. This is the case for Dalits in Nepal. As the country is undergoing a transitional phase and the political landscape is itself less than stable, more rigid

measures in the constitution, general law and party constitutions are needed. Only such measures will build a firm foundation that guarantee rights and provide long term protection, preventing it from being used for populist purpose. One way to balance the need for stability with fluidity is to have periodical evaluation of the need and effectiveness of established compensatory measures.

Fluid vs. Stable Compensatory Measures

- ❖ special provisions in general law vs. special provisions in constitution
- ❖ targets in special provisions vs. quotas in special provisions
- ❖ provisions in party constitutions vs. appointments in party decision
- ❖ regular evaluation of special provisions vs. sporadic evaluation of special provisions

Another strategy in overcoming the complications of essentialising is by stressing internal diversity. The focus on ensuring the proportional representation of the disadvantaged group as a whole leaves the risk of failing to recognise significant differences within the group. In Nepal, it has been said that the Bishwakarmas dominate others within the Dalit community and behave like Brahmins. Terai Dalits are more deprived than Hill Dalits and female Dalits face more multi-faceted discrimination than their male counterparts. All significant subgroups have to be included. Stressing the discrepancies and dynamics within historically disadvantaged groups contributes in softening the edges of identity based politics. Moreover, it enhances the mutual relationship between representatives and the represented.

In order to ensure the link with exclusion, differences within the Dalit community need to be taken into account. In particular, dispossessed subgroups have to be included, those facing most discrimination and are most backward in human development. Turning a blind eye towards differences between members of deprived groups in inclusive measures can result in the domination of subgroups with a stronger social, educational and economic position. This way, exclusion will continue take place but less visibly within the group (Cohen, 1997; Young, 1997; Young, 2002). If only the least marginalised members of

the group represent, the link with inclusion will be seriously weakened, especially if such members actively favour their subgroup.¹⁵ In the US, African American representatives sometimes ignore the interest of vulnerable subgroups like homosexual African Americans, arguing that they are not 'real' group members (Cohen, 1999).

In Nepal, despite the different shared experiences of Dalit representatives from different subgroups within Dalit communities, their link with exclusion seems to imbue them with a mission for social reform and justice even though the political context often provides little room in doing so:

Since a sizable number of Dalit leaders are first generation leaders with relatively weak social base, they find themselves somewhat uncomfortable in getting fully acclimatised in the contemporary culture of the country. Moreover, they themselves have undergone through the trauma of social disgrace and human indignity; hence, they have entered in the politics with a mission of social amelioration of the Dalits but find difficult to carry it out due to the unfavourable political atmosphere (Ram, 2008: 22).

Creating Political and Institutional Space

The third condition for meaningful representation of Dalits in Nepal is the establishment of a political as well as institutional space for Dalit representatives to represent the Dalit community. This will ensure the effective representation of the community and enable Dalit representatives to balance party interest with community and national interest. Dalit representatives, by virtue of sharing past experiences of deprivation and discrimination, have a mandate to represent those communities that constitute Dalits. In Nepal, adequate representation in central leadership and executive bodies of established political parties together with the institutionalisation of inclusive norms is essential in providing such a space.

Besides a link with inclusion, representation should provide the space for previously excluded groups to represent their community. By virtue of having shared experiences and a common interest with

¹⁵ This is what Cohen calls "secondary marginalisation" (1997) and what Young calls the "suppression of difference" (1997: 350-351; Young, 2002: 140).

historically disadvantaged segments of society, they have a mandate to stand for, speak and act on behalf of their similar others. Without the ability to truly represent those communities, descriptive representation will not result in the benefits that justifies it. No matter how great shared experiences and mutual interest, group representation will not translate in inclusive policy making and enhanced institutional legitimacy if they have to work in an environment that does not provide freedom to address the issues of their respective groups.

Formal provisions and procedures that ensure the inclusion of descriptive representatives in elected institutions neglect the informal ways in which political institutions can obstruct access to decision making (Cohen, 1997). This undermines the integrative function of political institutions (Matland, 2006). It can lead to party-tokenism and co-optation where seats are given to historically disadvantaged groups only to increase visible legitimacy while power is kept firmly in the hands of dominant groups.

A proportional electoral system facilitates the inclusion of previously disregarded groups. However, it can also give extra power to those in the party who prepare the list of candidates for the elections. This in turn puts extra hold on the representatives who depend on party list-makers to run for the election. In some African countries, seats are sometimes given to the representatives of marginalised communities in exchange for party loyalty (Bauer, 2008; Tripp et al., 2006). This is even a problem in established democracies like the UK, where party identity and institutional norms are “determining factors” (Childs, 2006: 8).

Political institutions, both through formal and informal norms, rules and procedures can determine the attitudes and behaviour of representatives, limiting their ability to act independently (Childs, 2004; Childs, 2006: 9; Cowley & Childs, 2003). In a political context where institutions have strong adhering norms and where party discipline is high, representing community interest can be very difficult. It will be next to impossible when this requires ‘crossing over’, rebellion against party position or its leadership in favour of representing the community. In Nepal, party discipline has been very high since the restoration of democracy in 1990. All major

parties have special enforcers, party whips, whose purpose is to ensure elected representatives vote in accordance with official party policy. Ultimately, the full leash of party whips, without institutional space for the effective representation of communities, cannot not be appropriate for an inclusive democracy that intends to overcome past injustices.

B.R. Ambedkar stressed the need for Dalit led political parties that specifically and uniquely addresses the concerns of Dalits (Das, 1963). Such parties have risen in importance in India but they have not been successful in Nepal. Even though no Dalit led party has managed to mobilise and represent the Dalit electorate, all the established parties have a Dalit sister wing that has been given the same responsibility. But they have very little influence over important matters of their affiliated parties. In addition, established political parties lack transparency and internal democracy in decision making and the fact that most parties have been controlled by a few top leaders. This has kept Dalit representatives from the sister wings outside the main structure of their party.

Even in a political setting that favours inclusion, where tension between representing community and party will be less, descriptive representatives still need the freedom to deliberate and act on behalf of their respective communities. After all, their shared experiences give them unique perspectives that will otherwise remain unaddressed. In a political context where party politics and party orientation dominates, representatives do not always have the ability to serve in the best interest of their community. This is particularly so for Dalits in Nepal where parties provide little room for representing their community.

Without conscious effort in creating political and institutional space, Dalits may feel slightly more empowered symbolically by seeing and having their representatives in the political bodies. Nonetheless, Dalits will continue to be disempowered. The CA was considered the most inclusive assembly in South Asia. But representatives from marginalised groups in the CA, many of whom uneducated, were hesitant to speak up in an environment traditionally inhabited by 'upper castes'. Still, the changing political and social context and adoption of inclusion by established political parties is opening the

political process for Dalits. The question is whether and in what degree this is enabling Dalit representatives to effectively and meaningfully represent their community.

B.R. Ambedkar argued that in a joint electorate Dalit representatives would only be 'nominal' representatives and not 'real' representatives. Any Dalit who would refuse to be a nominee of the Hindu elite and effectively be a tool in their hands, would not be able to be elected in a joint electorate. It would only give political representation as mere tokenism as it compels the Dalit leadership to serve "as a tool of the Hindus" (Das, 1963: 414). The difficulties in finding a space for Dalits made Ambedkar advocate for separate electorates. One electorate would be composed of Dalit voters, exclusively electing Dalit representatives in the legislature (Ibid.: 412-414). This would definitely result in the ability of Dalit representatives to represent their community without restraints. However, it would also set their community apart in such an extreme way that it may lead to a future where societal integration is almost impossible.

Even without the implementation of rigid separate Dalit electorates, reservation provisions in the constitution of India are still firmly in place after several decades. The politicisation of caste is difficult to be undone and identities on the basis of caste have become static as a result. In Nepal, the need for stability in a still changeable and unpredictable political landscape has to be balanced with the need for fluidity to make sure Dalits will be integrated rather than set apart in the political process. Overly rigid measures will perpetuate a myth of Dalit dependence in Nepalese society while bestowing a seemingly natural right of emerging Dalit political elite. Nepal nevertheless requires firm and extensive measures in the new constitution. This is to compensate for historical injustices and to give Dalits the assurance that their political demands will be heard and taken seriously, now and in the future. Even when established political parties have adopted Dalit friendly policies, there is no guarantee that they will continue to do so. Without an established space for Dalits to embody their interests, representation cannot fully serve its purpose.

It can be challenging to find preferential representatives from dispossessed subgroups that have a strong link with inclusion. At

the same time finding qualified political actors that are educated, experienced and have an independent outlook that goes beyond political careerism and obedience to party leadership is also challenging. Those who are uneducated and blindly follow the directions of party leaders will not be challenging to find. In extreme circumstances, it might even be used by those in power as a conscious strategy, evidently including the most vulnerable members while barring those with a real orientation towards Dalit emancipation. Dalit representatives need to be capable enough to represent. Therefore, selection criteria for group representation need to stress on the qualification of members of the Dalit community while ensuring the inclusion of dispossessed subgroups within the Dalit community.

The Role of Descriptive Representatives

Stressing the conditions of meaningful representation captures the composition as well as the role of representatives, both vital when the nation is in the transition towards mainstreaming all segments of society. Consequently, meaningful representation must be seen as the degree to which the political setting include historically disadvantaged groups in adequate numbers, accommodates internal diversity and provides sufficient political and institutional space. Presence in numbers, while necessary, is not always sufficient, especially in a country that has only recently adopted accommodation and inclusion:

The mere presence of marginalised groups in legislatures is not sufficient for the fair representation of citizens of those groups, even though it is often necessary (Williams, 1998: 6).

The limitations of group representation reveal its conditional nature. Moving the emphasis of group representation from what representatives are to what they do and ought to do reveal the roles of descriptive representatives. These roles, expectations of how a person should behave, are influenced by pre-existing norms and still developing new inclusive norms. They determine the inclination and ability to stand for, speak and act on behalf of similar others. Expectations will be met when representatives have a mutual relationship with

different subgroups and the freedom to effectively represent them. Their responsibilities will be neglected in case of role ambiguity, when there is uncertainty about how to behave. This will also be the case if there is role strain, when representatives lack knowledge, experience or qualifications to fulfil the role expected of them, or role avoidance. Particularly in contexts with a history of exclusion, new inclusive roles have to replace existing exclusionary ones. Role ambiguity will take place when institutional rules and party position dictate and give little room for representatives to manoeuvre. Role strain will occur when informal procedures lead to the appointment of candidates known for their loyalty towards party leadership rather than their competence. Role avoidance will take place when representatives do not interact with their community, distancing themselves from the segments of society they are assumed and supposed to represent.

Chapter 3

A HISTORY OF DALITS IN THE POLITICAL PROCESS

The path towards Dalit representation in the political process started with the dawn of democracy in Nepal in the early 1950s. Regardless of the momentum and sincerity this initially held, lack of consensus among increasingly conflicting factions proved an insurmountable challenge in the times ahead. The Dalit movement of Nepal came with growing anti-Rana and pro-democracy sentiments in the country. Principles of social justice, equal opportunity and rightful representation gained grounds in Nepal. But with the democratic forces divided, soon to be dominated by a re-emerging traditional elite, the declared promise of holding elections of a constituent assembly and drawing a new constitution that would ensure the representation of the people, did not materialise.

First Democratic Period 1951-1960

The authoritarian Rana regime that had survived in Nepal through tyranny, revenge and persecution was dependent on the support of the British and had been closely related with the colonial power (Whelpton, 1991; Joshi and Rose, 1966: 23-39). But with the final days of British Raj in sight, the struggle for independence in India was also putting more and more pressure on the regime that was incapable of containing mounting anti-Rana activities taking place in India. Nepalese residing in India were highly inspired by the principles of democratic government that instigated the Indian Independence Movement (Singh, 1985). They began to organise themselves and mobilise into a movement.

Many young Nepalese Dalits in India, equally inspired the Indian Dalit Liberation Movement that fought for human dignity, social justice and rightful representation of Dalits, went back to Nepal to fight against caste-based discrimination and untouchability. Bhagat Sarbajit Biswakarma and Saharsha Nath Kapali were notable among those youths (Kisan, 2005: 89; Bishwakarma et al., 2006). Sarbajit Biswakarma, who had studied Hindu religious scripts and Sanskrit language in Vanaras Hindu University, established the *Vishwa Sarvajan Sangh*, the 'Association for All the People of the World' in 1947 in Baglung district (Western Nepal). It was the first organisation founded in Nepal with the objective to promote the self-worth of Dalits. One time, Sarbajit Biswakarma defiantly wore the holy thread, exclusively reserved for Brahmans, in the capital city. Subsequently, he was physically assaulted by infuriated Brahmans and put in jail by the police. Such disobedience further encouraged other Dalits in Nepal to form similar organisations like the *Vishwa Sarvajan Sangh*.

In the same turbulent year of 1947, the Tailor's Union in Kathmandu was founded by Saharsha Nath Kapali, who was ironically sent by Rana in Calcutta to attend a tailor's training as his father was a private tailor of the Rana generals (Bishwakarma, 2006). The Union advocated against economic exploitation of tailors, tailoring being a traditional occupation of Dalits in Nepal. Moreover, the *Nepal Samaj Sudhar Sangh* (Nepal Social Reform Association) was formed in the eastern part of Nepal in 1947 while the *Nepal Harijan Sangh*

(Nepal Harijan Association) was formed in 1950, advocating for the upliftment of Dalits. The establishment of such organisations expanded the Dalit movement in Nepal with the turn of Indian independence. The Dalit movement joined forces with the anti-Rana and pro-democracy movement demanding a representative form of government. This undermined the Rana dynasty, which was further destabilised by internal power struggles. In 1951 the 104 years old dynasty came to an end after a popular revolt led by Nepali Congress (NC) and prompted by King Tribhuvan's exile in India (Chatterjee, 1967). Multi-party parliamentary democracy was introduced in Nepal, commencing the first democratic period.

The Interim Government of Nepal Act of 1951, promulgated as a temporary arrangement until a new constitution would be framed by a duly elected constituent assembly that did not materialise, functioned as the country's constitution till 1959. For the first time social justice, special provisions and reservations together with equality before the law and non-discrimination were endorsed. The Interim Government Act, informally called interim constitution, explicitly stipulated that the government:

Shall promote with special care the educational and economic interests of the weaker sections of the people, and shall protect them from social injustice and all forms of exploitation (The Interim Government of Nepal Act, 1951: art. 10).

Furthermore, it stated that “the government shall not discriminate against any citizen on the grounds of religion, race, caste, place of birth or any of them” (The Interim Government of Nepal Act, 1951: art. 14 (1)), provided that the government was permitted in making “special provisions for women and children” (Ibid.: art. 14 (2)). For ensuring “equal opportunity” (Ibid.: art. 15), it allowed the government in making:

Any provision for the reservation of appointments or posts in favour of any backward class of citizens, which, in the opinion of His Majesty's Government is not adequately represented in the service of under His Majesty's Government (The Interim Government of Nepal Act, 1951: art. 15 (2)).

The ‘interim constitution’ had anticipated for the commencement of elections of a constituent assembly that would frame a constitution

of Nepal. This was underlined in the Indian Memorandum of 1950 and the New Delhi Agreement of 1951 (Gupta, 1964: 47). The Interim Government of Nepal Act of 1951 was, in many respects, far ahead of its time.

Between 1951 and 1959 both legislative and executive powers were vested in the King and the Cabinet in which it was assisted by the *Sallahkar Sabha* (Advisory Assembly) (The Interim Government of Nepal Act, 1951: art. 30, 31). However, contrary to the ambitions set in the Interim Government Act and in the face of the contribution of Dalits in the anti-Rana and pro-democracy movement. Dalits were absent in the cabinets that followed political change - in both the Rana-NC coalition under prime ministership of Mohan Shumsher and the coalition government led by NC under Matrika Prasad Koirala. Subsequent interim governments of Nepal similarly failed to include members of the Dalit community. This despite the dedication of the new political actors in promoting democracy and equal opportunity in Nepal.

A Dalit did become member of the Advisory Assembly. Dhanman Singh Pariyar was the first Dalit representative on behalf of NC for the 47 (61 if the ministers included) seated Assembly. The Advisory Assembly, constituted in July 1952 as provisioned in the Interim Government Act was to assist the King and the cabinet in legislation, broaden the base of government and foster greater participation from representatives of the people in the administration of the country (Joshi & Rose, 1966: 151-152). The Assembly had the power to initiate bills. It also retained the right to reject bills and resolutions put forward by the cabinet with a simple majority (The Interim Constitution of Nepal, 1951: art. 54, 56). Nevertheless, initiated bills and resolutions could be vetoed by the King and cabinet as “deemed fit” (Ibid.: art. 57) while bills rejected by the Assembly could be certified “as having passed anyway” when believed to be in the “public interest” of the country (Ibid.: art. 58).

The Advisory Assembly was limited in scope but with considerable power (Paramand, 1982: 116-117) and functioned as a quasi-parliament during the interim governments of Nepal’s first democratic period. Nonetheless, it was dissolved some time later by King Tribhuvan. The

Assembly was reinstated in April 1954, now comprising of 97 seats (113 including ministers) in order to create “a more broad-based advisory assembly” (Nepal Gazette, vol. 3 (35), April 19, 1954: 73). No Dalits were appointed even though special representation was given to “women, peasants, merchants, labourers and other neglected classes” (Paramand, 1982: 152).

The period of 1950-1959 saw many interim governments rise and fall that were largely ineffective as power struggles surged between and within political parties. This created unfavourable circumstances for the election of a constituent assembly that had a greater chance to include members from all walks of life. The monarchy, since 1955 vested in the considerably more conservative King Mahendra after the demise of his father Tribhuvan used the situation to strengthen its hold on power (Whelpton, 2005: 87-98). Instead of holding planned elections for a constituent assembly, the constitution of Nepal was framed by a commission constituted by King Mahendra. It was subsequently promulgated in February 1959, prior to holding general elections (Joshi & Rose, 1966: 280-300). This, along with many other communities, deprived Dalits to put forward their demands in the constitution. In the meantime, the struggles of the Dalit movement continued. Even though the assertion for rightful representation of Dalits in Nepal side-tracked, there were some notable successes.

After the democratic turn of Nepal in 1951 numerous organisations were formed, actively advocating for the dignity and basic rights of Dalits. Among them were *Nimna Samaj Sudhar Sangh* (Lower Society Reform Association), 1951; *Jat Tod Mandal* (Destroy Caste Group), 1951; *Samaj Sudhar Sangh* (Society Reform Association), 1952; *Pichhadike-Barga Sangathan* (Backward Class Organisation), 1952; *Pariganit Nari Sangh* (Pariganit Women Association), 1955; *Achhut Mukti Morcha* (Untouchables Freedom Front), 1958; and *Rastriya Achhut Mukti Parisad* (National Untouchables Freedom Council), 1958 (Kisan, 2005). The successful Pashupatinath Temple Entrance Campaign of 1954 was the high point of the Dalit movement in the first democratic period of Nepal meant to get entrance in temples, forcefully if necessary. After the success of the campaign several similar actions were organised in other parts of the country, but with limited results.

Contrary to the 1951 Interim Government Act, the 1959 Constitution endorsed a strict liberalist viewpoint on the principle of individual universalism. Democracy in Nepal thereby diverged from the Indian model of inclusive democracy that was set in the Indian Constitution of 1950. The 1959 constitution of Nepal provisioned for a wide range of fundamental rights, retaining individual freedoms, equality before the law and non-discrimination already set in the Interim Government Act (The Constitution of the Kingdom of Nepal, 1959: art. 4 (3)). However, it no longer permitted the making of reservation provisions for 'backward classes of citizens' in governance, 'special care' for educational and economic opportunities or any other 'special provision'. Consequently, the principles of social justice and equal opportunity that had steered the movement for democracy in Nepal were replaced by the principle of formal individual equality. Turning a blind eye towards differences in caste, sex and ethnicity would effectively allow the traditional male 'upper caste' elite of Nepal to continue their dominance in social, economic and political life in the decades to come.

The 1959 constitution did install a parliamentary democracy in Nepal in which the Council of Ministers was headed by the prime minister, 'first among equals', answerable and accountable to Parliament. The national legislature consisted of two Houses, a stronger Lower House and a weaker Upper House. The 109 members of the *Pratinidhi Sabha* (House of Representatives), functioning as the Lower House, were elected on the basis of universal adult suffrage through single member constituencies in a First-Past-the-Post (FPTP) electoral system. Out of the 36 members of the *Maha Sabha* (Senate) that functioned as the Upper House, half were indirectly elected by the House of Representatives while the other half were nominated by the King. The first general elections of Nepal (1959) were held in the same February when the constitution came into effect.

No Dalit was elected in the House of Representatives of 1959. And out of a total of 786 candidates contesting the election, only one was a Dalit. NC, known as the organisation in which "people from all walks of life and all parts of Nepal had come to join" (Paramand, 1982: 16) won a landslide victory during the 1959 general elections, securing 74 out of 109 seats. But NC failed to put forward any Dalit candidate (see table 7).

Table 7: Dalit Candidacy in the 1959 General Election

Political Affiliation	Total Candidates	Dalit Candidates	Total Elected	Dalit Elected
Nepali Congress	108	0	74	0
Nepal Rastriya Gorkha Parishad	86	0	19	0
Shamukta Praja Party Nepal	86	0	5	0
Nepal Communist Party	47	0	4	0
Nepal Praja Parishad (Acharya)	46	0	2	0
Nepal Praja Parishad (Mishra)	36	0	1	0
Terai Congress	21	0	0	0
Nepal Rastriya Congress	20	0	0	0
Nepal Prajatantric Maha Shava	68	0	0	0
Independent	268	1	4	0
Total	786	1	109	0

Adapted from Election Commission, 1992; Devkota, 1977: 79-111; Dalit numbers are based on authors' analysis

The Nepal Communist Party founded in 1949 ideologically differed with NC and had called for the establishment of a relatively more equalitarian 'people's democracy', similarly failed in putting forward Dalit contestants for the election. In fact, none of the nine political parties contesting for the first parliamentary election of Nepal included a Dalit among their ranks. The only Dalit candidate, Soman Das Chamar, contesting in Saptari district, was independent. He received 471 votes, ranking him 8th out of 12 candidates in his constituency (Devkota, 1977: 90).

A Dalit, Saharsha Nath Kapali from NC, did become member of the Senate, the Upper House of Parliament, elected indirectly by the members of the House of Representatives. He became the first Dalit Member of Parliament of Nepal in 1959 (Biswakarma, 2006: 257). But

as NC formed the first democratically elected government of Nepal under the prime ministership of Bisheshwar Prasad Koirala, no Dalit was posted in the 19 member cabinet.

Panchayat Period 1961-1990

Many constitutional powers were vested in His Majesty in a time democracy had yet to consolidate. One such power was that the King could declare a “state of emergency” in times of crisis and assume dictatorial powers (The Constitution of Nepal, 1959: art. 55). In December 1960, only 18 months after the election, King Mahendra who had opposed party based democracy dissolved Parliament. He fatefully proclaimed that “the fair name of democracy should never be permitted to be exploited, to do evil rather than good to the people” (cited in Baral, 1977: 43) as he seized absolute control with the support of the military. The 1959 constitution was revoked and political parties were abolished in favour of the partyless Panchayat system.

The Panchayat period sanctioned a system of guided democracy and co-optation of marginalised groups offering the regime a thin cover of legitimacy. The bicameral legislature was replaced by the unicameral *Rastriya Panchayat* (National Panchayat). The number of seats in the National Panchayat varied with constitutional amendments.¹⁶ After the third amendment in 1980 it had 140 members of whom 112 members were elected from the districts on the basis of adult franchise, while 28 members were nominated by the King. Rather than being the apex of the Panchayat system, the National Panchayat served mostly as an advisory body of the King (Joshi & Rose, 1966: 443-464). For instance, the final assent of proposed laws rested in His Majesty the King without any possibility of overrule by Parliament

¹⁶ At first in 1962, the constitution had provisioned a National Panchayat with 125 members of whom 15 were nominated by the King with the remainder elected indirectly through lower tiers of the Panchayat system. The first amendment in 1975 increased the number to 135 of whom 23 were nominated by the King. The third amendment increased the seats for the royal nomination to 28 and elected seats to 112. The third amendment relatively liberalised the election process with the introduction of adult franchise. All 75 districts were divided into two categories, those with lower population were allocated one seat each and those with larger population were allocated two seats each. All adult citizens of age 21 years and above had the right to vote, see the Constitution of Nepal, 1962.

with a simple or qualified majority (The Constitution of Nepal, 1962: art. 56). During the 30 years long Panchayat period (1961-1990), only four Dalits were nominated (six nominations) as representatives in the National Panchayat (see table 8).

Table 8: Dalits in the National Panchayat 1961-1990

	Name	Year of Appointment
1.	Dhanman Singh Pariyar	1962 (nominated by King)
2.	Hira Lal Bishwakarma	1971 (nominated by King)
3.	Hira Lal Bishwakarma	1974 (nominated by King)
4.	Hira Lal Bishwakarma	1981 (nominated by King)
5.	T.R. Bishwakarma	1981 (nominated by King)
6.	Tek Bahadur Bishwakarma	1986 (nominated by King)

Adapted from Pandit, 2009; compiled by authors

Nominating Dalits in the National Panchayat gave an illusion of legitimacy to the autocratic regime without sincerely having to address the concerns and demands of Dalits. It was a method of royal co-optation.

All four Dalit members who had been the members of the National Panchayat were nominated by the King. No Dalit was elected either through indirect or direct ballot in the partyless elections of the National Panchayat. This made Dalit presence in the national legislature fully dependent on appointments by His Majesty to be made as he “deemed appropriate” (The Constitution of Nepal, 1962: art. 34 (2b)). Moreover, considering that the National Panchayat was in function for over 30 years with a tenure ranging from four to six years, six Dalit nominations made up less than 1 per cent of its composition.

In the Cabinet, Hira Lal Bishwakarma was appointed as Assistant Minister of Supply in 1974, becoming the first Dalit minister of Nepal. In 1975 he was re-appointed and in 1984 he became Minister of State. His presence did much for the Dalit community. As mentioned in the previous chapter many Dalits from Bishwakarma community changed their surname from Kami, signifying a hereditary occupation, to Bishwakarma (Cameron, 2007: 18).

The 1962 Constitution of Nepal stated that “Sovereignty of Nepal is vested in His Majesty, and all powers – executive, legislative and judicial – emanate from him” (The Constitution of Nepal, 1962: art. 20 (2)). It curbed fundamental rights and limited democratic accountability (Ibid: art. 17). During the Panchayat period Dalits had to combine their fight for rightful representation in the Panchayat as well as struggle for democracy in the hope of establishing a truly representative form of government. However, the Dalit movement had considerably less room to manoeuvre during the autocratic Panchayat rule. It was much more difficult to press demands in the closed polity. In a period of thirty years, only nine Dalit organisations were established (Kisan, 2005), less than in the preceding twelve years (1947-1959) leading up to and of the first democratic period of Nepal.

Second Democratic Period 1990-2006

In April 1990 the United Left Front, an alliance of seven communist parties¹⁷, joined with NC to launch a mass movement for the restoration of democracy in Nepal. Many Dalits joined the People’s Movement, taking active part in protests, demonstrations and *Bandhas* (strike with roadblocks). At first this resulted in repressions and numerous arrests. But on 8 April 1990 King Birendra, who had ascended to the throne in 1972 after the demise of his father Mahendra, finally decided to yield to the pressure of popular uprising. He invited representatives of the political parties for dialogue. This led to the restoration of multiparty democracy (Baral 2012: 22). On April 19 an interim government was formed, headed by NC President Krishna Prasad Bhattarai, which steered Nepal into a new democratic era. Despite the role of the Dalit community during the People’s Movement, no Dalit was appointed in that cabinet. In May 1990, a Constitution Recommendation Committee was set up yet no Dalit found a place among its members. The draft of the Committee had proposed that 3 per cent from the Dalit community should be included among the

¹⁷ Constituent parties in the United Left Front included CPN-Marxist Leninist, Nepal Mazdoor Kissan Party, CPN-Fourth Convention, CPN-Marxist, CPN-Burma, CPN-Manandhar, and CPN-Amatya.

members of the Upper House, the *Rastriya Sabha* (National Assembly) while electing 35 of its 60 members through the Lower House (CRC, 1990: art. 50 (kha)). Notwithstanding, the provision was removed as per the recommendation of the Council of Ministers before the Constitution was promulgated in November 1990.

The 1990 Constitution of the Kingdom of Nepal reinstalled a parliamentary system based on multiparty competitive democracy with a constitutional monarchy (preamble). Similar to the 1959 constitution, it provisioned for a wide range of fundamental rights, now also including the right to press and publication and the right to information. It similarly failed, however, to address equal opportunity, social justice and rightful representation of Dalits and other marginalised groups of Nepal. While the People's Movement restored democracy and formal civil and political rights founded on the principle of individual universalism, it did not result in a truly representative form of government. The democratically elected Lower House, the House of Representatives, was not better in electing Dalit members than the National Panchayat. Major parties only put forward a handful of Dalit candidates during general elections. The Upper House, the National Assembly, while showing slightly more inclusive in numbers, displayed a policy of party-tokenism and continued royal co-optation.

In 1991 general elections for the House of Representatives were held. NC won an absolute majority with 110 out of 205 seats. Krishna Singh Pariyar from NC became the first popularly elected Dalit Member of Parliament of Nepal. He would be, however, the only Dalit member of the House of Representatives. He remained the only directly elected Dalit in the national legislature across three general elections (1991, 1994, 1999) even though 126 Dalits contested. In the 1991 general election 12 Dalits contested, comprising only 0.89 per cent of the total 1,345 candidates (see Table 9).

Table 9: Dalit Candidacy in the 1990s General Elections

Political Affiliation	1991	1994	1999	1990s
Nepali Congress	1/204 (0.49%)	0/205 (0%)	1/205 (0.49%)	2/614 (0.33%)
Communist Party of Nepal-UML	1/177 (0.56%)	0/196 (0%)	2/195 (1.03%)	3/568 (0.53%)
Rastriya Prajatantra Party	-	1/202 (0.99%)	2/68 (2.94%)	3/270 (1.11%)
Rastriya Prajatantra Party-Chand	0/154 (0%)	-	3/184 (1.63%)	3/338 (0.89%)
Rastriya Prajatantra Party-Thapa	0/163 (0%)	-	-	0/163 (0%)
Nepal Mazdoor Kissan Party	0/30 (0%)	0/27 (0%)	0/41 (0%)	0/98 (0%)
Sanyukta Janamorcha	0/77 (0%)	-	-	0/77 (0%)
Rastriya Janamorcha	-	-	5/40 (12.5%)	5/40 (12.5%)
Communist Party of Nepal-ML	-	-	4/197 (2.03%)	4/197 (2.03%)
Communist Party of Nepal-Democratic	1/75 (1.33%)	-	-	1/75 (1.33%)
Nepal Sadbhavana Party	0/75 (0%)	1/86 (1.16%)	3/53 (5.66%)	4/214 (1.87%)
Rastriya Janamukti Party	2/50 (4%)	0/82 (0%)	4/130 (3.08%)	6/262 (2.29%)
Dalit Mazdoor Kissan Party	0/1 (0%)	-	-	0/1 (0%)
Nepal Dalit Shrameek Morcha	-	-	22/22 (100%)	22/22 (100%)
Other Parties	6/120 (5%)	8/259 (3.09%)	23/468 (4.91%)	37/847 (4.37%)
Independent	1/219 (0.91%)	8/385 (2.34%)	27/633 (4.27%)	36/1,237 (2.91%)
Total	12/1,345 (0.89%)	18/1,442 (1.25%)	96/2,238 (4.494%)	126/5,025 (2.51%)

Adapted from Election Commission, 1992; Election Commission, 1995; Election Commission, 1999; number and percentages are based on authors' analysis

In the 1994 general election during which the Communist Party of Nepal-Unified Marxist Leninist (CPN-UML), a merger party of 1990 with two constituents - Communist Party of Nepal-Marxist Leninist (CPN-ML) and Communist Party of Nepal-Marxist (CPN-M) of the United Left Front, came out as the single largest. CPN-UML won 88 of 205 seats. The 18 Dalit contestants of the 1994 election made up only 1.25 per cent of the total 1,442 candidates. In the 1999 election NC again won an absolute majority with 111 seats. The number of Dalit candidates in that election rose significantly to 96, making up 4.29 per cent of the total 5,025 candidates. Even with the exponential increase of Dalit candidates, not a single Dalit was elected after 1991.

Though NC was the only political party credited to get a Dalit elected in the House of Representatives in 1991, it shied away to put forward Dalit candidates across all three general elections. It put none in 1994. CPN-UML was the other major political party during the second democratic period. In all three elections the party put forward a total of 568 candidates, out of which only 3 (0.53 per cent) were from the Dalit community. This way, the major political forces NC and CPN-UML, while securing 86.5 per cent of the seats of the House of Representatives (87.32 per cent 1991, 83.41 per cent in 1994 and 91.71 per cent in 1999) put forward only 5 Dalit candidates out of the combined 1,182 candidates of NC and CPN-UML.

The *Rastriya Prajatantra Party* (RPP), the National Democratic Party, was formed out of the supporters of the former partyless Panchayat regime. RPP secured 38 seats in the House of Representatives across three elections. None of them were occupied by a member of the Dalit community, hinting at the marginal position Dalits had in those parties as well as in the former Panchayat system. In fact, pro-Panchayat parties - RPP, *Rastriya Prajatantra Party-Chand* (RPP-C) and *Rastriya Prajatantra Party-Thapa* (RPP-T) did not put forward any Dalit candidates in the 1991 general election even though 317 candidates from those parties contested. This changed in subsequent elections. The RPP alone put forward 3 Dalit candidates in the 1994 and 1999 elections. Altogether, the different pro-Panchayat parties put forward six Dalits out of 771 candidates. Ironically, with the exception of 1991, the pro-Panchayat parties, in favour of an active monarchy, showed

more inclusive in putting forward candidates in the 1990s elections than NC and CPN-UML.

Many of the smaller parties also proved considerably more inclusive than the major parties towards Dalits in candidacy for elections. Only the *Nepal Mazdoor Kissan Party* (Nepal Workers and Peasants Party) and *Sanyukta Janamorchha* (United People's Front) failed to put forward a single Dalit candidate. The other smaller communist parties, *Rastriya Janamorchha* (National People's Front) and CPN-ML, the latter being a split from CPN-UML that first contested in 1999, put forward four and five Dalit candidates respectively. In fact, Dalit candidates from the *Rastriya Janamorchha* in the 1999 election comprised of 12.5 per cent of the total candidates put forward by the party. The Nepal Sadbhavana Party (NSP), a regional party representing the Madhesi community of the Terai, included a Dalit in the 1991 and 1994 general elections while putting forward three Dalits in the election of 1999. The *Rastriya Janamukti Party*, associated with the Indigenous Communities of Nepal, put forward six Dalits in the 1990s elections.

While most of the smaller parties put forward more Dalit candidates, they were unable to compete against the major political parties. NC and CPN-UML, both with a long history that originated with the dawn of democracy in Nepal, had better organisations and networks as well as fixed bases of support (Hachhethu, 2002; Kumar, 2010). The FPTP electoral system exacerbated this by over-representing major parties at the expense of smaller ones. As only the candidate with the most votes wins in each constituency, many votes for candidates from smaller parties were lost. In fact, while NC and CPN-UML together secured 86.5 per cent of the seats of the House of Representatives during the 1990s, they only received 67.99 per cent of the total votes. Therefore, it was next to impossible for a Dalit to get elected without the support of the major political forces.

The FPTP electoral system also created substantive barriers for independent Dalit candidates to get elected. The number of independent Dalits rose from two in 1991 and eight in 1994 to 27 in 1999. Nevertheless, none of 36 independent candidates got elected. Also outside the Dalit community, few independent candidates got elected in the 1990s elections. Independents usually only had any

chance of winning most of the votes in a constituency where members from the same caste or ethnicity constituted a large segment of the population. Several independent candidates from Indigenous Communities, whose communities are geographically concentrated, did get elected. In the 1994 general election, Palten Gurung got elected in Manang district securing 61.73 per cent of the votes while Gobinda Chaudhary in Rautahat got elected with 34.97 per cent of the votes (Election Commission, 1995). Another hidden fact behind the success of some independent candidates was that they were backed unofficially by one of the major parties against other candidates. But Dalits were without such support, and being geographically dispersed across Nepal, they did not constitute more than 20 per cent in any of the electoral districts. This made it more difficult for winning most of the votes for by mobilising Dalit voters, most of whom already part of the support base of one of the major parties.

The electoral success of a Dalit led political party was similarly dismal in the 1990s, though two such parties contested for elections. The *Dalit Mazdoor Kissan Party* (Dalit Workers and Peasants Party), registered and contested for the 1991 general election, making it the first registered Dalit political party in Nepal. Its leadership was made up of both Dalits and non-Dalits and the only candidate put forward by the party was not member of the Dalit community. In the 1999 election the newly formed *Nepal Dalit Shrameek Morcha* (Nepal Dalit Labourers Front) put forward 22 Dalit candidates, one of the main reasons of the growth of Dalit candidacy. Neither party succeeded in mobilising the Dalit community. *Nepal Dalit Shrameek Morcha* received a total of 6,852 votes, making up only 0.08 per cent of valid votes cast in the election of 1999 (Election Commission, 1999). *Dalit Mazdoor Kissan Party* only got 92 votes in the 1991 election (Election Commission, 1992). Even if a proportional (instead of a FPTP) electoral system had been in place in the 1990s elections, it would not have been enough for either party to secure even a single seat in the House of Representatives.

Major political forces did not embrace Dalits among their ranks, neglecting their responsibility to ensure a representative selection of candidates and in having an inclusive House of Representatives. During the 1959 general election there was a small pool to select qualified

Dalit candidates and thus it was not surprising that parties failed to put forward Dalit candidates. But this was no longer the case in the 1990s as an increasing number of Dalits ran for office independently, for smaller parties and Dalit led parties. The potential role of the major political parties in including Dalits among their ranks could not be overestimated. In fact, the Dalit candidates put forward by the major parties - NC and CPN-UML, ranked in the top five Dalit candidates of the respective election (see table 10).

*Table 10: Top Ranking Dalit Candidates
of the 1991, 1994 and 1999 General Elections*

Rank	Name	Party	% of Votes	District
<i>1991 General Election</i>				
1.	Krishna Singh Pariyar	Nepali Congress	35.47	Banke
5.	Sitaram Harijan	Communist Party of Nepal-UML	3.89	Rupandehi
7.	Sitaram Khang Khatwe	Communist Party of Nepal-Democratic	3.42	Saptari
<i>1994 General Election</i>				
3.	Man Bahadur Sunar	Independent	19.61	Kanchanpur
4.	Tek Bahadur B.K .	Rastriya Prajatantra Party	4.90	Parbat
4.	Rana Bahadur Bishokarma	Communist Party of Nepal-Marxist	1.92	Shyangja
<i>1999 General Election</i>				
2.	Dal Bahadur Sunar	Communist Party of Nepal-ML	20.15	Banke
3.	Ram Lakhan Chamar	Communist Party of Nepal-UML	18.01	Nawalparasi
3.	Pratab Ram Lohar	Rastriya Prajatantra Party-Chand	6.97	Darchula
4.	Ram Prit Paswan Dusadh	Communist Party of Nepal-UML	12.66	Saptari

Adapted from Election Commission, 1992; 1995; and 1999; compiled by authors

Unlike in the House of Representatives, Dalits did find more places in the indirectly elected 60 member National Assembly, the Upper

House of Parliament¹⁸. This despite the fact that the Upper House was more than three time smaller in size than the Lower House of Parliament. When the National Assembly came into being after the general election in 1991, two Dalits - Golchhe Sarki and Dal Singh Kami from CPN-UML and NC respectively, were elected by the House of Representatives as members (see table 11).

Table 11: Dalits in the National Assembly 1991-2001

	Name	Year	Method of Appointment
1.	Dal Singh Kami	1991	Lower House (NC)
2.	Golchhe Sarki	1991	Lower House (CPN-UML)
3.	Man Bahadur Bishwakarma	1993	Nominated by King
4.	Ratna Bahadur Bishwakarma	1995	Lower House (NC)
5.	Bijul Kumar Bishwakarma	1999	Lower House (NC)
6.	Lal Bahadur Bishwakarma	1999	Lower House (CPN-UML)
7.	Rishi Babu Pariyar	1999	Nominated by King
8.	Ram Prit Paswan Dushad	1999	Lower House (CPN-UML)

Adapted from Pandit, 2009; compiled by authors

Eight Dalits became member of the National Assembly from its formation in 1991 to its dissolution in 2007. Six were indirectly elected by the members of the House of Representatives, three each from NC and CPN-UML. Two were nominated by the King. Considering the 10 years the National Assembly was in function, Dalits in the Upper House were under represented relative to the size of their population. As the National Assembly was a permanent body with a six year term of office of its members (one-third of its members retired every two years) (The Constitution of Kingdom of Nepal, 1990: art. 46 (2, 3)), Dalits received eight out of approximately 160 seats¹⁹, comprising

¹⁸ Seats of the National Assembly were distributed as follows: 35 were elected by the Lower House, the House of Representatives, on the basis of single transferable vote, 15 elected by an electoral college consisting of the representatives from local level bodies each from five development regions, and 10 were nominated by the King, see the Constitution of the Kingdom of Nepal, 1990: art. 46 (1).

¹⁹ 60 in 1991, 20 in 1993, 20 in 1995, 20 in 1997, 20 in 1999, and 20 in 2001. After the 2002 dissolution of the House of Representatives in May 2002, the National Assembly too became defunct though the house formally remained until the Interim Constitution was adopted in January 2007.

five per cent. Dalit representation in the National Assembly visibly increased to 4 in 1999, possibly the result of growing pressure for inclusion inside the major political parties.

It stands out that both royal nominations and indirect elections of the Upper House were more inclusive towards Dalits than direct elections of the Lower House. The second democratic period of Nepal was signified by weak bicameralism in which the House of Representatives was more powerful than the National Assembly. Bills and resolutions first rejected in the Upper House could be overruled by a simple majority in the Lower House, bypassing the National Assembly (Ibid.: art. 68 (7)). In addition, financial bills could only be introduced by the Lower House (Ibid.: art. 68 (1)) and the Upper House could only make suggestions for financial bills put forward (Ibid: art. 68 (2)).

As the House of Representatives received its mandate directly from the people, it justified the weaker role of the indirectly elected National Assembly. But with Dalits excluded from the more powerful House of Representatives, institutional legitimacy was undermined. Appointments of Dalits by major parties in the weaker Upper House, without those political forces putting forward Dalit candidates in the elections in any significant numbers, effectively made such appointments, similar to the royal co-optation of Dalits during the Panchayat epoch, party-tokenism. It enhanced legitimacy only visibly while keeping actual power away from Dalits.

The electoral forces of Nepal showed more exclusive in appointing Dalits in the government than forces located outside the electoral process. No Dalits were posted in the cabinets led by either NC or CPN-UML between 1990 and 2001. It was only after the insurgency escalated into a civil war that Dalits were appointed in the government. Between 2002 and 2006 a total of seven Dalits were appointed in the cabinet (see table 12).

Table 12: Dalits in the Cabinet 1990-2006

Name	Post	Cabinet	Year (Month)
Prakash Chitrakar Pariyar	Assistant Minister (Land Reforms and Management)	Lokendra Bahadur Chand (King Gyanendra)	2003 (April)
Hari Shankar Pariyar	Assistant Minister (Physical Planning and Works)	Sher Bahadur Deuba	2004 (July)
Lal Bahadur Bishwakarma	Minister of State (Population and Environment)	Sher Bahadur Deuba	2004 (July)
Golchhe Sarki	Assistant Minister (Labour and Transport Management)	King Gyanendra	2005 (July)
Golchhe Sarki	Assistant Minister (Women, Children and Social Welfare)	King Gyanendra	2005 (December)
Hari Shankar Pariyar	Assistant Minister (Forest and Soil Conservation)	King Gyanendra	2005 (December)
Pratap Ram Lohar	Assistant Minister (Environment, Science and Technology)	King Gyanendra	2005 (December)

Compiled by authors

In 1996 the Communist Party of Nepal-Maoist (CPN-Maoist) had declared the commencement of a “people’s war”, using the rhetoric of inclusion of Nepal’s excluded communities (Hutt, 2004). At this time, the different political forces – the Maoists, the established political parties and the monarchy, faced each other in their assertions. Maoist insurgents, fighting for a casteless society, started to form autonomous people’s governments in areas they were active. Out of the nine regional governments formed by the Maoists, one was headed by a member

of the Dalit community. Khadga Bahadur Bishwakarma became the in-charge of the autonomous region of Beri-Khamali. The Maoist party encouraged participation of downtrodden and marginalised communities, historically disadvantaged groups. This would prove instrumental to cash the sentiment of Dalits in favour of federalism later on. Major political forces - NC and CPN-UML, proved to be less inclusive.

As the Maoists politicised the issue of inclusion of Nepal's historically disadvantaged communities, established political parties did not remain completely unconcerned towards the assertions of Dalits. On July 5, 2003 five parties – NC, CPN-UML, NSP, Nepal Workers and Peasants Part and National People's Front, produced a document that laid down the future of political representation of Dalits as well as other excluded groups. Entitled *Aragami Sudhar Samandhi Dristikorn ra Karyakram* (Vision and Programmes for Progressive Reforms), was a commitment to reform the electoral system, making it more proportional towards women, Dalits and backward regions and to create a stronger Upper House that would accommodate ethnic nationalities, Dalits, women and people from "different walks of life". It also outlined a commitment in ensuring equal opportunity in Nepal and for making special provisions for "the upliftment of backward groups and regions". The agreement reflected growing realisation of the continued exclusion of Dalits among other historically disadvantaged groups. Besides, there must have been a growing realisation that the Maoists had gained the moral high ground on the issue of Dalit inclusion. Nevertheless, the document would not see its implementations and it was the monarchy, not the established political parties that made the next political move.

On 1 February 2005, King Gyanendra assumed absolute power, accusing the government of failing to contain the Maoist insurgency and to make arrangements for parliamentary elections. Again Dalits were appointed by the King in his Cabinet. In July 2005 Golche Sarki was appointed as Assistant Minister of Labour and Transport Management while in December of the same year three Dalits, Golchhe Sarki, Hari Shankar Pariyar and Pratab Ram Lohar, were appointed as Assistant Ministers after a reshuffle of the cabinet. This was an unprecedented

number of Dalits in a single cabinet. Though a record that has not yet been broken, it was little more than a desperate move towards continued royal co-optation, enhancing legitimacy of the monarchy in a period the unpopular King was facing increasing opposition. Eventually, the Maoist insurgents and the established political parties formed an alliance called the Seven Party Alliance (SPA) and signed the 12 point agreement making a commitment to end the monarchy, restore peace and install an inclusive democracy in Nepal.

The second democratic period of Nepal (1990-2006) saw the growth of civil society organisations and the beginning of an open discussion on rightful representation and caste-based discrimination and untouchability (Kisan, 2005). When formal democracy was restored after the first People's Movement in 1990, Dalit civil society came into the fore for a vision of an egalitarian society, fighting mostly in a peaceful and legalistic way. But it was not until the Second People's Movement of April 2006 that would lead to the abolishment of the monarchy and commencement of a Republic that Dalit assertions found new impetus. After tremendous pressure exerted by the 19 days movement in April 2006 (*Jana Andolan II*) the King finally conceded. The Dalit movement of Nepal that joined the *Jana Andolan II* was instrumental in transforming Nepal into an inclusive democracy.

On 18 May 2006 the reinstated House of Representatives announced the end of Nepal as a "Hindu Kingdom" declaring it "a secular state" (Declaration of the House of Representatives, 18 May 2006). Two weeks later, on 4 June 2006, it also declared Nepal as "a nation free of caste-based discrimination and untouchability" (Declaration of the House of Representatives, 4 June 2006). The political forces agreed on preparing an Interim Constitution through a Drafting Committee and subsequently the government stated the names of the members of the Drafting Committee on the basis of consensus with all parties, including the Maoist. The six-member drafting committee initially included no Dalit member from Dalit ignoring the commitment that they made only a few days before. But after protests erupted by Dalits, Janajatis and Madhesi, the committee was expanded by adding more members - five Janajatis, one Madhesi and one Dalit. Min Bahadur

Bishwakarma from NC became the Dalit representative for drafting the Interim Constitution.²⁰

The Republican Period 2006-2012²¹

The 2007 Interim Constitution, promulgated in January, guarantees for a wide range of fundamental rights. It stipulated equality before the law and non-discrimination while it explicitly mentions the right against untouchability and racial discrimination (Interim Constitution of Nepal, 2007: art. 14). Contrary to the 1990 Constitution of the Kingdom of Nepal, it declares Nepal as a “secular, inclusive, federal, democratic republican state” (Ibid.: art. 4). Furthermore, it stresses the need for positive discrimination that goes beyond a strict liberalist mode of equality, endorsing the principle of social justice:

Dalits... who are economically, socially or educationally backward, shall have the right to participate in state structures on the basis of principles of proportional inclusion (Interim Constitution of Nepal, 2007: art. 21).

Under the responsibilities of the state the Interim Constitution specifies the making of special provisions for the “protection, advancement and empowerment of Dalits...” (Ibid.: art. 13 (3)). And to ensure the geographically dispersed Dalits are not neglected in a federal Nepal, the state is required:

To carry out an inclusive, democratic and progressive restructuring of the State by eliminating its existing form of centralised and unitary structure in order to address the problems related to women, Dalits, indigenous tribes, Madhesis, oppressed and minority communities and other disadvantaged groups, by eliminating class, caste, language, gender, cultural, religious and regional discrimination (Interim Constitution of Nepal, 2007: art. 33).

After the third amendment of the Interim Constitution on 9 March

²⁰ Members of the drafting team were Laxman Prasad Aryal, Agni Kharel, Pushpa Bhusal, Sindhu Nath Pyakurel, Harihar Dahal, Khim Lal Devkota, Sushila Karki, Shambhu Thapa, Chhatra Kumari Gurung, Shanta Rai, Sunil Prajapati, Chandeshwor Shrestha, Kumar Yonjan Tamang, Mahadev Yadav, Parshuram Jha and Min Bahadur Bishwakarma.

²¹ Nepal formally became a republic in 2008 after the CA adopted a resolution abrogating the monarchy on 28 May and declared the country a ‘Federal Democratic Republic’. This book nevertheless treats the success of the 2006 People’s Movement in overthrowing King Gyanendra’s rule and the reinstatement of the House of Representatives as the beginning of a republican era in Nepal.

2007, article includes the obligation for proportional representation of Dalits in state governance: “to enable Dalits...to participate in all organs of the State structure on the basis of proportional inclusion” (2007: art. 33 (d1)).

With the promulgation of the Interim Constitution, the Dalit movement has become more fragmented. Most demands are based on proportional representation at all levels of decision making. However, some Dalit activists²² have demanded non-territorial federal units for Dalits as they lack ancestral lands to claim their own province (*Pradesh*) as the Dalit population is dispersed across the country. Similarly, some Hill Dalit communities have been demanding a *Pradesh* or sub-province in parts of Khasan or Karnali-Bheri and Seti-Mahakali region in the Far and Mid-Western Hills while some Madhesi or Terai Dalits have been demanding for a Shahalesh autonomous region in Siraha and Saptari districts in Eastern Terai.

In 2005 it was settled among the parties to hold the election of a constituent assembly, in New Delhi, the same place where the formation of such an Assembly, responsible for drafting a new constitution, was first agreed upon in 1950. In April 2008 the Constituent Assembly (CA) was finally formed through an election on the basis of a mixed electoral system with the principle of inclusion. It was seen as the most inclusive political institution of South Asia if not in the world, even though Dalits were not represented proportionally. But lack of consensus among major political forces resulted in the failure of the CA and its representatives to execute the given mandate. In May 2012 the tenure of the CA ended without completing its set task.

The Interim Constitution replaced the bicameral legislature with the unicameral 330 member Interim Legislature-Parliament. The Interim-Legislature Parliament consisted of the 209 elected members of the preceding House of Representatives and National Assembly from seven political parties - NC, Nepali Congress-Democratic²³ (NC-D),

²² Ganesh B.K. and Biswa Bhakta Dulal 'Ahuti', from the Maoists have demanded for a 'non-territorial' unit for dalits but later on Ahuti dropped this idea as he realised it was not feasible and appropriate. Ganesh B.K. continues to advocate for non-territorial federalism (Bishwakarma, 2012).

²³ Nepali Congress-Democratic was a party formed due to a vertical split of NC led by Sher Bahadur Deuba. On 25 September 2007 the party merged with NC.

CPN-UML, *Rastriya Janamorchha*, *Nepal Sadbhavana Party-Anandidevi* (NSP-A), *Nepal Mazdoor Kissan Party*, *Janamorchha Nepal* (Interim Constitution of Nepal, 2007: art. 45 (1a)). 121 seats were added to accommodate CPN-Maoist (83) as well as seven other political parties and members of civil society (48) (Ibid: art. 45 (1b, c)).

The Members of Parliament who had been against the People's Movement were barred from joining the Interim Legislature-Parliament. This involved representatives from the pro-Panchayat parties and members of the National Assembly nominated by the King. As a result, Ram Prit Paswan, sitting member of the National Assembly from CPN-UML was the only Dalit from the previous Parliament who maintained a seat in the national legislature. Rishi Babu Pariyar, nominated by the King in 1999, was barred from the Interim Legislature-Parliament, having chosen the side of the King during the Second People's Movement.

The Dalit community obtained 17 (14.05 per cent) out of 121 added seats in the Interim Legislature-Parliament (see table 13).

Table 13: Dalit Seats in the Interim Legislature-Parliament

Basis for Seats/Nominations	Dalit Seats/ Total Seats	% of Seats
Preceding House of Representatives 1999	0/194	-
Preceding National Assembly	1/14	7.14
Communist Party of Nepal-Maoist	12/83	14.46
Nepali Congress	1/10	10
Communist Party of Nepal-UML	2/10	20
Nepali Congress-Democratic	0/6	-
Janamorchha Nepal	2/3	66.66
Nepal Mazdoor Kissan Party	0/3	-
Nepal Sadbhavana Party	0/3	-
Rastriya Janamorchha Nepal	0/3	-
Total Interim Legislature-Parliament	18/330	5.45

Adapted from the Interim Constitution of Nepal, 2007: Schedule 2; number and percentages are based on authors' analysis

This made added seats proportional to the population ratio of Dalits in Nepal. Nevertheless, the total 18 Dalits in the Interim Legislature-Parliament, including the 209 members of the dissolved Parliament, made up only 5.45 per cent of the national legislature. 12 Dalit members were nominated by CPN-Maoist, comprising 14.46 per cent of the total 83 Maoist nominations in the Interim Legislature-Parliament. Both NC and CPN-UML received 10 extra seats, out of which NC included one Dalit. CPN-UML included two Dalits. Only the National People's Front, among the seats reserved for the six smaller parties, nominated two Dalits.

In order to ensure the establishment of a truly inclusive democracy, the Interim Constitution provisioned for the formation of the CA that was tasked with the drafting of a new constitution for Nepal (Interim Constitution of Nepal: 2007: art. 63). The CA consisted of 601 seats, its vastness intended to ensure the representation of all historically disadvantaged groups. It was the first assembly in Nepal in which its members were elected on the basis of a mixed electoral system. 240 members were elected through FPTP, 335 members elected through Proportional Representation (PR) and 26 nominated by the Cabinet (Ibid: art. 63). After the election of the CA on 10 April 2008, the Maoists had emerged as the largest party with 226 seats²⁴, followed by the NC with 114 seats and CPN-UML with 107 seats.

Dalits obtained 50 seats in the CA, an unprecedented number. While the Interim Legislature-Parliament included more Dalits than all legislative bodies between 1951 and 2007 combined, the CA included more Dalits than all preceding national legislative bodies. Nevertheless, 50 seats in an assembly of 601 came short of proportional representation as Dalits, constituting 13 per cent of the population of Nepal, made up only 8.32 per cent of the assembly. While electoral law safeguarded the principle of proportional inclusion under PR,

²⁴ The CPN-Maoist united with CPN-Unity Centre on January 13, 2009 forming Unified Communist Party of Nepal Maoist (UCPN-Maoist). After the merger the number of seats in the CA of UCPN-Maoist became 238, including members nominated by the Cabinet. The party eventually had 240 members, after winning an extra member through the by-elections held in early 2009 while the other member joined the party after defecting from Terai Madhesi Loktantrik Party (TMLP). CPN-Maoist mentioned is the predecessor of UCPN-Maoist, not the later split from UCPN-Maoist.

no such provisions were made under the FPTP though electoral law stated that “the political parties must take into account the principle of inclusiveness while nominating candidates” (The Constituent Assembly Election Act, 2007: art. 5 (3)). Significant discrepancies existed between the FPTP and the proportional voting methods of the mixed electoral system.

Already provisioned in the Interim Constitution (Ibid.: art. 64 (4), the “principle of inclusion” under the FPTP voting method, lacking any specification, provided a weak basis for putting forward Dalit candidates. It remained silent about Dalits and other historically disadvantaged groups. Only for putting forward female candidates did the Interim Constitution under FPTP specify the proportion of inclusion, stating that “33 per cent of the candidates must be women” (Ibid.: art. 63 (5)).

Out of 3,946 candidates contesting for the FPTP election of the CA 196 were Dalits making up only 4.97 per cent of the total candidates. The number of Dalit candidates rose exponentially after each subsequent election since 1959. Compared to 96 Dalit candidates in the 1999 general election, the number of Dalit candidates under the FPTP method of the CA election it went up to 196. Proportionally, however, 4.97 per cent of candidacy is not a significant rise compared to the 4.29 per cent in the 1999 general elections. This is especially so considering that during the 1990s the principle of inclusion did not guide elections.

Only a few Dalits were given tickets from the major parties to contest under FPTP in the CA election. In fact, 22 out of 196 Dalit candidates came from the three major political forces – CPN-Maoist, NC and CPN-UML. Though CPN-Maoist topped the list by putting forward 18 Dalits (7.5 per cent) out of its 240 total candidates, it was still less than their population ratio. The new electoral force was nevertheless considerably more inclusive than either CPN-UML or NC. CPN-UML put forward three Dalit candidates (1.26 per cent) out of its 239 total candidates. NC gave a party ticket to only one Dalit out of its 240 total candidates. Similar to the 1990s general elections NC and CPN-UML proved more conservative in terms of Dalit inclusion under FPTP (see table 14).

*Table 14: Dalit Candidacy under First-Past-The-Post in the
Constituent Assembly Election*

Political Affiliation	Dalits/Total Candidates	Dalits/Total Elected
Communist Party of Nepal- Maoist	18/240 (7.5%)	7/120 (5.83%)
Nepali Congress	1/240 (0.42%)	0/37 (0%)
Communist Party of Nepal-UML	3/239 (1.26%)	0/33 (0%)
Madhesi Janadhikar Forum	0/103 (0%)	0/30 (0%)
Terai Madhesi Loktrantrik Party	0/94 (0%)	0/9 (0%)
Sadbhavana Party	2/87 (2.30%)	0/4 (0%)
Nepal Mazdoor Kissan Party	6/98 (6.12%)	0/2 (0%)
Janamorcha Nepal	21/203 (10.34%)	0/2 (0%)
Rastriya Janamorcha	16/122 (13.11%)	0/1 (0%)
Communist Party of Nepal-ML	9/116 (7.76%)	-
Rastriya Prajatantra Party	3/232 (1.29%)	-
Rastriya Prajatantra Party Nepal	2/204 (0.98%)	-
Rastriya Janashakti Party	5/198 (2.53%)	-
Rastriya Janamukti Party	6/84 (7.14%)	-
Dalit Janajati Party	32/50 (64%)	-
Nepal Dalit Shrmeeek Morcha	1/1 (100%)	-
Independent	33/816 (4.04%)	0/2 (0%)
Other parties without seats in FTTP	38/819 (4.64%)	-
Total	196/3,946 (4.97%)	7/240 (2.92%)

*Adapted from Election Commission, 2008; number and percentages are based
on authors' analysis*

Both the newly formed *Madhesi Janadhikar Forum* (MJF) and *Terai Madhesi Loktantrik Party* (TMLP), securing 39 seats in the CA under FPTP while putting forward 197 candidates, did not include even a single Dalit among their ranks. The former pro-Panchayat parties –RPP, *Rastriya Prajatantra Party Nepal* (RPP Nepal) and *Rastriya Janashakti Party*, now in favour of a constitutional monarchy, showed considerably less inclusiveness towards Dalits compared to previous elections. Still, they included more than NC and CPN-UML combined as was the case in the second democratic period. The RPP put forward three Dalits (1.29 per cent) out of its 232 total candidates. The *Rastriya Parajatantra Party Nepal* included two Dalits (0.98 per cent) out of 204 contestants.

Both *Rastriya Janamorchha* and *Janamorchha Nepal* proved most inclusive in Dalit candidacy under FPTP. *Rastriya Janamorchha* put forward 122 candidates out of which 16 were Dalit (13.11 per cent). *Janamorchha Nepal* included 21 Dalits (10.34 per cent) out of the total 203 candidates. The *Dalit Janajati Party* put forward 32 Dalit candidates, comprising 64 per cent of candidacy of the party representing both Dalits and the Indigenous Communities of Nepal. The *Nepal Dalit Shrameek Morcha* put forward one Dalit candidate, Narendra Paswan, under FPTP. The 33 independent Dalit candidates comprised of 4.02 per cent of all independent candidates contesting the CA election. This was notably less than the 4.27 per cent in the 1999 general election.

Seven Dalits were elected in the CA through the single-member districts of FPTP. It stands out that all seven candidates came from the CPN-Maoist. Similar to the 1990s elections, it reveals the ability of Dalit candidates, if affiliated with one of the major political forces, to get elected. This is despite the barriers of the FPTP voting method, where only the most of votes count. In fact, the only candidate put forward by NC, Man Bahadur Bishwakarma who contested in Arghakhanchi district, finished as close second, winning 10,591 of the votes. Similarly, out of three candidates put forward by CPN-UML one, Shree Prasad Paswan, finished third in Bara district, securing 5,708 votes. Indeed, all top 13 candidates came from the Maoist party, NC or CPN-UML (see table 15).

*Table 15: Top Ranking Dalit Candidates of the
Constituent Assembly Election*

Rank	Name	Party	Votes	District
1.	Khadha Bahadur Bishwokarma	CPN-Maoist	27,629	Kalikot
1.	Tej Bahadur Mijar	CPN-Maoist	22,076	Kavre
1.	Tilak Pariyar	CPN-Maoist	16,087	Banke
1.	Durga Kumari B.K.	CPN-Maoist	14,866	Kaski
1.	Gopi Bahadur Sarki (Achami)	CPN-Maoist	14,375	Morang
1.	Sita Devi Boudel	CPN-Maoist	13,535	Nawalparasi
1.	Mahendra Paswan	CPN-Maoist	12,110	Siraha
2.	Dambar Bahadur Bishwakarma	CPN-Maoist	11,050	Tanahu
2.	Raju Prasad Chamar Harijan	CPN-Maoist	10,849	Nawalparasi
2.	Man Bahadur Bishwakarma	NC	10,591	Arghakhanchi
3.	Shree Prasad Paswan	CPN-UML	5,708	Bara
3.	Khim Kumar B.K.	CPN-Maoist	11,136	Syangja
3.	Uma B.K.	CPN-Maoist	7,372	Kapilvastu

Adapted from Election Commission, 2008; compiled by authors

It was in Banke, the same district where Krishna Singh Pariyar was elected in 1991, that Tilak Pariyar from the Maoists was elected with 16,087 votes. This suggests that if major parties are positive to select Dalit representatives there will be a greater scope for Dalit inclusion in Nepal.

Seven Dalits were elected out of 22 Dalit candidates put forward by major parties under FPTP. This means that 31.82 per cent of Dalits with a major party ticket won the election in their constituencies. Comparing the seven elected Dalits with the total elected candidates, Dalits comprised of only 2.92 per cent of the 240 elected candidates under FPTP. The proportional inclusion of Dalits in Nepal ultimately depends on the contribution of major political parties.

Rather than installing multiple member districts, where several candidates will be elected in each constituency, the whole country was considered as one constituency under PR of the CA election (art. 63 (3b)). Similar to the elections of the House of Representatives in the Netherlands, the proportional effect under the proportional voting method is optimised where few votes are lost and effectively given to the bigger parties. In the mixed election of the CA, the three major parties - CPN-Maoist, NC, UML, jointly secured 447 out of 601 seats which comprised of 74.38 per cent. This was a significant drop compared to the 1999 general election in which the two biggest parties secured 91.71 per cent of the total seats. This way, the mixed electoral system allowed smaller parties to compete more effectively.

Assigning 335 seats for the CA election under a proportional voting method made it possible to present more members of the Dalit community. The Constituent Assembly Election Act further specifies that 13 per cent of candidates for the 'closed list' prepared by the parties must be Dalit (2007: art. 3 (7), Schedule 1), in accordance with the proportion of their population based on the 2001 Census. However, the act allowed political parties 10 per cent leeway in the final nominations and those parties contesting for 20 per cent or less of the seats were not obliged to be inclusive other than for women (Ibid: art. 7 (8, 14)). Altogether 43 Dalits were elected under PR, comprising of 12.84 per cent of the total 335 members. 35 out of 43 elected Dalit members came from the three major parties. The Maoists secured 100 seats under PR out of which 16 were obtained by the Dalit community. This comprised of 16 per cent of its CA members elected through PR, a percentage exceeding the requirement for proportional inclusion as stipulated by the Interim Constitution and electoral law. While NC put forward 9 Dalits in the CA out of 73 seats secured under PR, making up 12.33 per cent less than the requirement. CPN-UML included 10 Dalits out of 70 secured PR seats, comprising of 14.29 per cent. Altogether 6 Dalit members were elected through other parties' PR list - three from MJF, and one each from TMLP, *Rastriya Janamorchha*, CPN-ML, RPP and *Dalit Janajati Party*. The fact that 9 parties put forward Dalits in the CA was made possible because of the incorporation of a proportional voting method (see table 16).

*Table 16: Dalit Candidacy under Proportional Representation
in the Constituent Assembly Election*

Party Affiliation	Dalits/ Total Candidates	Dalits/ Total Elected
Communist Party of Nepal- Maoist	46/332 (13.86%)	16/100 (16%)
Nepali Congress	40/328 (12.20%)	9/73 (12.33%)
Communist Party of Nepal- UML	44/332 (13.25%)	10/70 (14.29%)
Dalit Janajati Party	35/72 (48.61%)	1/1 (100%)
Other parties	379/4,600 (8.32%)	07/22 (0%)
Total	544/5,701 (9.54%)	43/335 (12.84%)

Adapted from Election Commission, 2008; number and percentages are based on authors' analysis

Out of 5,701 candidates included in the various party lists under the proportional voting method, 544 were Dalit comprising of 9.54 per cent. As mentioned above smaller parties contesting for less than 20 per cent of the seats were not obliged to be proportionally inclusive towards Dalits and hence Dalits in party lists were comprised of less than 13 per cent. In fact, excluding the major parties and Dalit led parties, Dalits made up only 7.5 per cent of candidacy under PR. Out of 332 names included in the party list of Maoist party, 46 (13.86 per cent) were Dalit. CPN-UML prepared a list with 332 names out of which 44 (13.25 per cent) members were from the Dalit community while out of 328 names included in the party list of NC, 40 (12.20 per cent) were Dalit. As Dalits constituted less than 13 per cent in NC closed list, it shows that NC used the 10 per cent flexibility in the final nomination of candidates under PR.

As the incorporation of a proportional electoral method did ensure Dalit presence in the CA, it did not result in the electoral

success of Dalit led parties though two Dalit led parties, *Nepal Dalit Shrameek Morcha* and *Dalit Janajati Party* contested in the CA election. Compared to previous elections, a larger number of Madhesi parties emerged. Two newly formed Madhesi parties, the MJF and TMLP won 52 and 22 seats respectively. Contrasting to the MJF and TMLP, Dalit led parties could not mobilise voters successfully. Only the *Dalit Janajati Party*, a party both representing Dalits as well as Indigenous Communities, barely made the electoral quota under PR with 40,348 votes. As a result, Bishwendra Paswan was the only candidate elected from the closed list of the party. The *Nepal Dalit Shrameek Morcha* prepared a list including 35 Dalits under PR but with only 7,107 votes failed to meet the electoral quota.

After the *Jana Andolan II*, Dalits were appointed in the cabinet on a more regular basis. In 2006, an interim government was formed under NC leadership. Girija Prasad Koirala commenced his fourth term as prime minister of Nepal and appointed Man Bahadur Bishwakarma as Minister of State for Environment and Science and Technology. As there was no Minister for that ministry with full portfolio, Man Bahadur Bishwakarma effectively led that ministry. CPN-Maoist joined the Interim Government almost a year later in April 2007. Two Dalit members - Khadga Bahadur Bishwakarma from CPN-Maoist and Chabbilal Bishwakarma from CPN-UML, inaugurated into the Council of Ministers. It was the first time that Dalits were included with full ministerial portfolio. Earlier Dalit members of the cabinet had only been given positions either as Assistant Minister or Minister of State (see table 17).

Table 17: Dalit Nominations in the Cabinet 2006-2012

	Name	Post	Cabinet	Year
1.	Man Bahadur Bishwakarma	Minister of State (Environment and Science and Technology)	Girija Prasad Koirala	2006
2.	Khadga Bahadur Bishwakarma	Minister (Women, Children and Social Welfare)	Girija Prasad Koirala	2007

3.	Chhabilal Bishwakarma	Minister (Agriculture and Cooperatives)	Girija Prasad Koirala	2007
4.	Mahendra Paswan	Minister (Land Reform and Management)	Pushpa Kamal Dahal	2008
5.	Nabin Bishwakarma	Minister of State (Local Development)	Pushpa Kamal Dahal	2008
6.	Jeet Bahadur Darji Gautam	Minister of State (General Administration)	Madhav Kumar Nepal	2009
7.	Khadga Bahadur Basyal Sarki	Minister of State (Health and Population)	Madhav Kumar Nepal	2009
8.	Kalawati Devi Dushad	Assistant Minister (physical planning and works)	Madhav Kumar Nepal	2009
9.	Mahendra Paswan	Minister (Industry)	Jhala Nath Khanal	2011 (declined to accept)
10.	Khadga Bahadur Bishwakarma	Minister (Tourism)	Jhala Nath Khanal	2011 (declined to accept)
11.	Dal Bahadur Sunar	Minister of State (Irrigation)	Jhala Nath Khanal	2011
12.	Gopi Achami Nepali	Minister of State (Youth and Sports)	Baburam Bhattarai	2011
13.	Ramani Ram	Minister of State (Irrigation)	Baburam Bhattaria	2011

Compiled by authors

With the electoral success of CPN-Maoist, the party formed the government in August 2008 under the prime ministership of Pushpa Kamal Dahal, known as 'Prachandra.' But he too, despite his proclaimed position on inclusion of marginalised groups, did not include Dalits in the cabinet for seven months. Only after increasing protest from the Dalit community and fellow party members he finally appointed Mahendra Paswan as Minister of Land Reform and Management and Nabin Bishwakarma as Minister of State.

The 2009 government under leadership of CPN-UML appointed three Dalits in the cabinet, two Ministers of State and one Assistant Minister. In 2011 Prime Minister Jhala Nath Khanal from CPN-UML nominated Dal Bahadur Sunar, who became Minister of State of Irrigation. In addition, Mahendra Paswan and Khadga Bahadur Bishwakarma from the Unified Communist Party of Nepal-Maoist (UCPN-Maoist), a merger party of CPN-Maoist and Communist Party of Nepal-Unity Centre, were nominated as ministers. However, due to a conflict within the party both refused to take the oath. When Baburam Bhattarai became prime minister in August 2011, he appointed Gami Acchami Nepali and Ramani Ram as Minister of State. But after a subsequent reshuffle of the cabinet no Dalits were appointed, leaving the cabinet of the Bhattarai led government without representation of the Dalit community.

A Comparison

"In the past 10 years we have achieved a lot", Min Bahadur Bishwakarma, drafting committee member of the 2007 Interim Constitution, states. According to him, such achievement has been made possible only through the assertions of Dalits in the *Jana Andolan II*:

It is understood that the decision-making bodies can be influenced only through political mobilisation. We have seen a positive result of our [Dalit] political mobilisation within a decade (Interview with Min Bahadur Bishwakarma, 6 March 2012)

When comparing the previous periods with the Republican period, the number of Dalit representatives in Parliament has increased exponentially (see table 18).

Table 18: Dalits in the National Legislature 1951-2012

Period	Political Body	No. Dalits
First Democratic (1959-1960)	1959 House of Representatives (Lower House)	0
	1959 Senate (Upper House)	1
Panchayat (1960-1990)	1961-1990 National Panchayat	6
Second Democratic (1990-2007)	1991-2007 House of Representatives (Lower House)	1
	1991-2007 National Assembly (Upper House)	8
Republican (2007-2012)	2007-2008 Interim Legislature-Parliament	18
	2008-2012 Constituent Assembly	50

Compiled by authors

Furthermore, the number of Dalits contesting in general elections has increased. Still, when comparing the proportion of Dalit candidates, candidacy in the CA under FPTP was not significantly higher than that of the 1999 general election (see table 19).

Table 19: Dalit Candidacy in General Elections 1959-2008

General Election	No. Dalit Candidates	% of Dalit Candidates
1959 House of Representatives	1	0.13
1991 House of Representatives	12	0.89
1994 House of Representatives	18	1.25
1999 House of Representatives	96	4.29%
2008 Constituent Assembly (FPTP)	196	4.97%

Compiled by authors

In addition, since 2006 a total of 11 Dalits have been appointed in

five cabinets, more than the first democratic, Panchayat and second democratic period combined (1951-2006) (see table 20).

Table 20: Dalits in the Cabinet 1951-2012

Period	Dalits in Cabinet	Dalits in Council of Ministers
First Democratic (1951-1961)	-	-
Panchayat (1961-1990)	3	-
Second Democratic (1990-2006)	7	-
Republican (2006-2012)	8	3 ²⁵

Compiled by authors

All five cabinets of the Republic of Nepal did include Dalits at one point. Still, the number of Dalits in the Council of Ministers remains very marginal both in number and portfolio as Dalits are mostly appointed as Assistant Ministers or Ministers of State with fringe ministries. This contradicts the constitutional provision that stipulates the “proportional inclusion of Dalits in all organs of the state structure” (The Interim Constitution, 2007: art. 33). Besides, no Dalit has as of yet been appointed in the Planning Commission, the influential executive body responsible for allocating and planning the budget. With the dissolution of the CA on 28 May 2012 and a caretaker cabinet without Dalit representatives, Dalits are left excluded in a critical junction of Nepal’s history.

²⁵ Mahendra Paswan and Khadga Bahadur Bishwakarma declined to take the oath and are not included. If included the number of Dalits as full ministers would go up five.

Chapter 4

INCLUSION-EXCLUSION WITHIN THE DALIT COMMUNITY

Dalits of Nepal have a long history of deprivation and share memories of caste based discrimination and untouchability. Different groups within the Dalit community, while all historically disadvantaged, have faced exclusion in different ways and to a varied degree. Political representation needs to ensure a strong link with inclusion of dispossessed subgroups within the community. Representation should not be viewed without a consideration of the internal dynamics of Dalits, even when first concern is on their overall state and status. Durga Sob, a women rights leader, argues that the current situation must not be seen in a pure positive manner:

Dalit representation is better than in the past. But we have to analyse the situation in the present context where I find that it is still not satisfactory... Some Dalits are either under represented or have no representation at all in various political bodies (Interview with Durga Sob, 30 May 2012).

According to Durga Sob, Dalits are still facing many obstacles as the country is turning its eyes towards inclusive democracy.

Until the Second People's Movement of April 2006 (*Jana Andolan II*), and the promulgation of the Interim Constitution of Nepal (2007), whatever opportunity available for Dalits was taken almost exclusively by male Hill Dalits. They have represented disproportionately within the Dalit community at the expense of more discriminated Dalit women and more deprived Dalits of the Terai. Between 1951 and 2006, all 16 Dalit Members of Parliament were men while 15 of the hills. This way, Hill Dalit men, constituting approximately 32 per cent of the Dalit population, obtained over 94 per cent of seats obtained by Dalits in Parliament. And all 10 Dalit appointments in the cabinet during that same period were for Hill male Dalit. It was not until 1999 that Ram Prit Paswan became the first Terai Dalit Member of Parliament, forty years after the first Dalit became Member of Parliament. The first female Dalit entry into the national legislature came only with the formation of the Interim Legislature-Parliament in 2007. The first Terai Dalit minister, Mahendra Paswan, was sworn-in in 2008 while in 2009 Kalawati Devi Dushad became Nepal's first female Dalit member of the cabinet.

Some castes like Musahar, Khatwe and Badi have remained mostly absent in political institution despite their considerable population size. Pariyar and Bishwakarma caste have been included in a greater degree. Between 1951 and 2006, Bishwakarma and Pariyar, together comprising less than half of the Dalit population of Nepal, secured over three quarters of Dalit positions in Parliament while 80 per cent of posts in the cabinet. During this period, only one legislature, Golchhe Sarki, belonged to Mijar caste. He was chosen by Communist Party of Nepal-Unified Marxist Leninist (CPN-UML) as member of the National Assembly in 1991. In 2005 he was picked up by King Gyanendra while he deserted his association with CPN-UML. He subsequently became the first Mijar member of cabinet. In the past decade, the trend of Dalit inclusion has given more subgroups within the community a chance to represent in the political process.

Dispossessed Subgroups within the Dalit Community: The 1990s Elections

One of the conditions provisioned by the 1990 Constitution of Nepal regarding political parties contesting the parliamentary elections was that parties had to put up women candidates not less than five per cent of the total number of seats they contested for (Constitution of the Kingdom of Nepal, 1990: art. 114). As a result, women made up over 6 per cent of candidacy in the 1990s parliamentary elections (see table 21).

*Table 21: Female and Female Dalit Candidacy
in the 1990s General Elections*

	1991	1994	1999	1990s
Female Candidates out of Total Candidates	80/1345 (5.95%)	86/1442 (5.96%)	143/2238 (6.39%)	304/5025 (6.05%)
Female Dalit Candidates out of Total Female Candidates	0/80 (0%)	0/68 (0%)	2/143 (1.40%)	2/304 (0.66%)
Female Dalit Candidates out of Total Dalit Candidates	0/12 (0%)	0/18 (0%)	2/96 (2.08%)	2/126 (1.59%)

Adapted from Election Commission, 1992; Election Commission, 1995; Election Commission, 1999; number and percentages of female Dalit candidates are based on authors' analysis

Gender quotas in electoral law did not help Dalit women and no provisions were in place for either Dalits or Dalit women. Out of the 304 women candidates of three parliamentary elections, 26 succeeded in getting elected, winning a seat in the House of Representatives. But out of 80 females contesting in 1991 and 86 in 1994 elections, none came from the Dalit community. It was only in the 1999 general election that two Dalit women contested. Dhansara Sunar from Nepal

Janata Dal and Rima Kumari Nepali from *Communist Party of Nepal-Maxist Leninist (CPN-ML)* together comprised little over 2 per cent of 94 Dalit candidates while 0.66 per cent of 304 female candidates of the 1990s elections. Except *Nepal Janata Dal* and CPN-ML, no party put forward any female Dalit candidates across three elections.

Rima Kumari Nepali, who later became member of the Interim Legislature-Parliament in 2007, obtained an impressive 5.76 per cent of the votes in Rolpa district in the 1999 general election, ranking her 5th out of 11 candidates in the constituency (see table 22).

Table 22: Female Dalits Contesting in the 1999 General Election

Name	Party	Electoral District	Rank	No. Votes
Rima Kumari Nepali (Pariyar)	CPN-ML	Rolpa	5	1232 (5.76%)
Dhansara Sunar	Nepal Janata Dal	Bardia	6	598 (1.27%)

Adapted from Election Commission, 1999; compiled by authors

She received a party ticket from CPN-ML, a splinter group from CPN-UML formed in 1998 that was not only more inclusive in putting forward a Dalit women but also more inclusive towards Dalits in general (see table 11, p. 87). The only other female Dalit candidate came from *Nepal Janata Dal*, a party with a nationalist and socialist orientation that also first contested in 1999.

Dhansara Sunar received 598 votes in Bardia district, ranking her 6th in her constituency. *Nepal Janata Dal*, which had given a party ticket to 9 Dalits, not only put forward a Dalit women but also eight that belonged to the Terai Dalit community.

Even though no Terai Dalits were elected before 2008, they always made up more than 41 per cent of Dalit candidacy in parliamentary elections. This is more than the approximately 35 per cent Terai Dalits constitute of the total Dalit population. Notably, Soman Das Chamar, a Terai Dalit and independent candidate who received 471 votes in Saptari district, was the only Dalit contesting in the first general election of Nepal (1959). During subsequent general elections held in

the 1990s, 57 (45.24 per cent) out of 126 Dalit candidates were Terai Dalits (see table 23).

Table 23: Hill and Terai Dalit Candidacy in the 1990s General Elections

	1959	1991	1994	1999	1990s
Terai Dalits	1 (100%)	5 (41.67%)	8 (44.44%)	44 (45.83%)	57 (45.24%)
Hill Dalits	0 (0%)	7 (58.33%)	10 (55.56%)	52 (54.17%)	69 (54.76%)
Total Dalits	1 (100%)	12 (100%)	18 (100%)	96 (100%)	126 (100%)

Adapted from Devkota, 1977: 79-111; Election Commission, 1992; Election Commission, 1994; Election Commission, 1999; number and percentages are based on authors' analysis

Out of five Dalits getting a ticket from one of the two major parties - NC and CPN-UML, four were Terai Dalit. It stands out that all Dalit contesters from CPN-UML were Terai Dalits. This shows major parties were not more exclusive towards the Terai Dalit community even though Dalit exclusion continued to be the dominant trend. Then again, only a Hill Dalit, Krishna Singh Pariyar, in the 1990s general elections while none of the four Terai Dalit candidates put forward by CPN-UML even managed to get top two positions in their constituencies where they ran for office.

Dalit led parties, when successful, can be instrumental in bringing Dalits in the political process. Notwithstanding, candidacy of *Nepal Dalit Shrameek Morcha* reveals that even an organisation asserting itself exclusively for Dalits can include Dalit men, Hill Dalits and certain castes within the Dalit community while dispossessed subgroups continue to be excluded. The party, first contesting in the 1999 general election, nominated 5 Terai Dalits (22.72 per cent) of total 22 Dalit candidates. This is considerably less than the 35 per cent Terai Dalits constitute of the Dalit population. Regarding the different castes within the Dalit community, half of the candidates of *Nepal Dalit Shrameek Morcha* belonged to the Bishwakarma community. Two candidates of the party were Pariyar yet no member of Mijar caste was

put forward as candidate. Nevertheless, the Dalit led party did put forward two members from the dispossessed Musahar community. Ram Prasad Sada Musahar and Achchla Lal Sada Musahar ranked 9th and 7th in their constituency respectively (see table 24).

Table 24: Musahars Contesting in the 1999 General Election

	Name	Party Affiliation	Rank
1.	Rampait Sada Musahar	Nepal Sadbhavana Party	4th (out of 15)
2.	Kariya Sada Musahar	Independent	6th (out of 20)
3.	Achchla Lal Sada Musahar	Nepal Dalit Shrameek Morcha	7th (out of 15)
4.	Ram Narayan Sada	Communist Party of Nepal-United	7th (out of 12)
5.	Sonama Musahar	Independent	8th (out of 14)
6.	Ram Prasad Sada Musahar	Nepal Dalit Shrameek Morcha	9th (out of 20)
7.	Hansha Raj Majhi Musahar	Independent	9th (out of 18)

Adapted from Election Commission, 1999; compiled by authors

11 out of 26 castes within the Dalit community contested the 1990s parliamentary elections. In fact, every Dalit caste that constituted more than one per cent of the Dalit population contested. Three candidates were Bantar, a community of the Terai comprising only 1.3 per cent of the Dalit population, while one candidate belonged to very small Dharikar community. Yet, no candidates from other smaller Dalit communities like Gaine and Badi from the Hills and Chidimar, Dom, and Halkhor from the Terai, together comprising 1.27 per cent of the Dalit population (CBS, 2002) were among the 126 Dalit candidates (see table 25).

Table 25: Caste Wise Dalit Candidacy in the 1990s General Elections

Caste (% of Dalit population)	1991	1994	1999	1990s
1. Pariyar (14.16)	1 (8.33%)	2 (11.11%)	14 (14.58%)	16 (12.70%)
2. Bishwakarma (35.47)	3 (25%)	9 (50%)	31 (32.29%)	43 (34.62%)
3. Mijar (11.4)	1 (8.33%)	-	2 (2.08%)	3 (2.38%)
4. Khatwe (2.72)	1 (8.33%)	1 (5.56%)	1 (1.04%)	3 (2.38%)
5. Chamar (9.8)	1 (8.33%)	2 (11.11%)	14 (14.58%)	17 (13.49%)
6. Tatma (2.78)	1 (8.33%)	-	1 (1.04%)	2 (1.59%)
7. Dushad (5.75)	2 (16.67%)	4 (22.22%)	9 (9.74%)	15 (11.9%)
8. Dhobi (2.66)	1 (8.33%)	-	2 (2.08%)	3 (2.38%)
9. Bantar (1.3)	1 (8.33%)	-	2 (2.08%)	3 (2.38%)
10. Musahar (6.25)	-	-	7 (7.29%)	7 (5.56%)
11. Dharikar (NA)	-	-	1 (1.04%)	1 (0.79%)
12. Unidentified Nepali	-	-	12 (12.5%)	12 (9.52%)
13. Total Dalits (100)	12 (100%)	18 (100%)	96 (100%)	126 (100%)

Adapted from Election Commission 1992; Election Commission 1995; Election Commission 1999; numbers and percentages are based on authors' analysis

Outside the Dalit led parties, Bishwakarma was not put forward disproportionately with 34.13 per cent of Dalit candidacy. This comprised of approximately the same proportion that Bishwakarma constitutes of the Dalit population.²⁶ And the Pariyar community comprising of 14.16 per cent of Dalits in Nepal, made up 12.7 per cent of Dalit candidacy. Noticeable is the negligible percentage of candidates from the Mijar community. Mijar made up only 2.38 per cent of Dalit candidacy in the 1990s elections even though Mijar constitutes 11.4 per cent of the Dalit population. In the 1994 general election, no member from the Mijar community contested.

Chamar, the largest Dalit community of the Terai comprising of little less than 10 per cent of Dalits in Nepal, made up over 13 per cent of Dalit candidacy in the 1990s. Dushad similarly made up more than its relative size of its population indicated, comprising 11.9 per cent of candidates while constituting only 5.75 per cent of the Dalit population. With 15 candidates, Dushad had three times more contestors in general elections than Tatma and Dhobi combined, whose combined population matches that of Dushad. This is especially surprising as Tatma and Dhobi have higher literacy rates than Dushad (see table 6, p. 37).

Musahar, whose members have the lowest on average literacy rates within the Dalit community, were missing in the 1991 and 1994 elections. In 1999 seven members of the Musahar community ran for office, comprising 5.56 per cent of Dalit candidacy in that election. Noteworthy is the fact that Jokhu Dharikar, an independent candidate belonging to the Dharikar community also contested in 1999. Overall, the 1999 election, by including Dalit women as well as members from Musahar, Dhobi, Bantar and Dharikar castes, was considerably more inclusive towards dispossessed subgroups within the Dalit community, at least in candidacy though no such members were elected.

²⁶ Dalit population is based on the 2001 Census rather than 1991 Census. Even though the 1991 Census can best be used for electoral data of 1990s, it provides segregated population data for only nine out of 26 Dalit castes. Consequently, it was assessed by the authors that the 2001 Census, providing data for 16 Dalit castes gave more accurate percentages of caste wise segregated population data.

The Interim Legislature-Parliament

Before the promulgation of the Interim Constitution in 2007 no provisions or laws were in place to ensure the representation of Dalits or dispossessed subgroups. With the commencement of the era of the Republic of Nepal after the *Jana Andolan II*, inclusion became central in Nepal's pursuit for democracy. The Maoists joined mainstream politics after a decade long insurgency in which they mobilised Nepal's marginalised communities -women, Madhesis, Janajatis and Dalits including Terai Dalits and Dalit women. Other parties similarly adopted the principle of inclusion and participation of previously excluded groups.

After the Interim Constitution came into effect, the Interim Legislature-Parliament was installed as Nepal's transitional Parliament. The Interim Legislature-Parliament was the most inclusive political body towards Dalits, Dalit women and Terai Dalits. Six Dalit women obtained seats in the Interim Legislature-Parliament, making up an impressive one third of Dalit members. In addition, four Terai Dalits became member. It was a significant when compared to the internal dynamics of Dalit representation of earlier periods. Before the installment of the Interim Legislature-Parliament, Ram Prit Paswan, appointed in the National Assembly in 1999, had been the only Terai Dalit Member of Parliament.

The inclusion of some dispossessed subgroups within the Dalit community was mostly a consequence of Maoist entrance into conventional politics. The Maoists, Communist Party of Nepal Maoist (CPN-Maoist), had for the first time a chance to put forward representatives for Parliament. Many Terai Dalits and female Dalit had participated in the Maoist insurgency and the Maoist party could now show its dedication towards the inclusion of the most marginalised segments of society. And it did, showing its dedication in its nominations for the Interim Legislature-Parliament. Out of the 12 CPN-Maoist nominations for Dalits, four were Dalit women - Uma B.K., Rupa B.K., Sita B.K. and Saraswati Mohara. In addition the party nominated two Terai Dalits - Mahendra Paswan and Ram Ashreya Ram (see Table 26).

Table 26: Dalit Members of the Interim Legislature-Parliament

	Name	Sex	Caste	Party
1.	Khadga Bahadur Bishwakarma	male	Bishwakarma	CPN-Maoist
2.	Tilak Pariyar	male	Pariyar	CPN-Maoist
3.	Mahendra Paswan	male	Dushad	CPN-Maoist
4.	Uma B.K.	female	Bishwakarma	CPN-Maoist
5.	Rupa B.K.	female	Bishwakarma	CPN-Maoist
6.	Sita B.K.	female	Bishwakarma	CPN-Maoist
7.	Saraswati Mohara	female	Bishwakarma	CPN-Maoist
8.	Ram Ashreya Ram	male	Chamar	CPN-Maoist
9.	Nanda Singh Sarki	male	Mijar	CPN-Maoist
10.	Mangal Bishwakarma	male	Bishwakarma	CPN-Maoist
11.	Pashuram Ramtel	male	Mijar	CPN-Maoist
12.	Pradam Lal Bishwakarma	male	Bishwakarma	CPN-Maoist
13.	Mitha Ram Bishwakarma	male	Bishwakarma	NC
14.	Ram Prit Paswan	male	Dushad	CPN-UML
15.	Chooda Mani Jangali	male	Bishwakarma	CPN-UML
16.	Rima Kumari Nepali	female	Pariyar	CPN-UML
17.	Anjana Bishankhe	female	Mijar	Janamorchha Nepal
18.	Asharfi Sada	male	Musahar	Janamorchha Nepal

Adapted from the Interim Constitution of Nepal, 2007: Schedule 2; compiled by authors

NC reserved one seat for a member of the Dalit community out of 10 extra seats obtained in the transitional Parliament, nominating Mitha Ram Bishwakarma. CPN-UML nominated two Dalits, one male, Chooda Mani Jangali, and one female, Rima Kumari Nepali. By being members of the Interim Legislature-Parliament predecessor the

National Assembly, Ram Prit Paswan, a Terai Dalit from CPN-UML also became the national legislature. *Janamorchha Nepal* (People's Front Nepal), a party that had earlier shown inclusiveness in putting forward Dalits during the second democratic period (1990-2006), nominated Anjana Bishankhe, a female member of the Mijar community. The party also nominated a member of the Musahar community. Asharfi Sada became the first Musahar Member of Parliament of Nepal.

Given the lack of proportional representation of Dalits in the Interim Legislature-Parliament (18 members), many populous and less populous castes within the Dalit community were not included. Only six Dalit castes - Bishwakarma, Chamar, Dushad, Mijar, Musahar and Pariyar, found representation. All Dalit communities were either under represented or not represented based on the relative size of their populations of Nepal. Khatwe, Dhobi and Tatma should each have received one seat each in the transitional Parliament when taking into consideration both their share of the population and the size of the Parliament. The national legislature did include two members of Dushad caste but only one member from the more populous Chamar and Musahar communities that should have received four and three seats respectively based on the relative size of their population. Three Mijars (two from CPN-Maoist and one from *Janamorchha Nepal*) were included while two seats were obtained by Pariyar, a noticeable break with the past. With regard to the composition of Dalit nominations, more than half were given to members of the Bishwakarma community.

The Constituent Assembly

The disproportional representation of any group within the Dalit community tends to exclude members of other dispossessed subgroups. After the election of the Constituent Assembly (CA) in April 2008, the Interim Legislature-Parliament was dissolved, replaced by the body assigned with both national legislation and drafting a new constitution for Nepal. Through the mixed election, incorporating both methods of First-Past-The-Post (FPTP) and Proportional Representation (PR), 50 Dalits obtained seats in the CA. This was an unprecedented number and with the inclusion of other historically disadvantaged groups the

CA was celebrated as the most inclusive political body of South Asia. But what about dispossessed subgroups within the Dalit community? Were all Dalits represented proportionately or did the inclusion of some Dalits continue to go at the expense of others?

If the CA had ensured the proportional representation of Dalits (not to be confused with the electoral method PR), Dalits would have received 13 per cent or 78 out of 601 seats based on the 2001 population census (CBS, 2002). The 50 seats Dalits actually obtained was 28 seats less. The representation of Dalit subgroups can therefore be analysed by looking both at 50 Dalit seats actually obtained, and by considering 78 seats Dalits would have received in proportional numbers. Among 50 seats, 25 were obtained by Dalit women. It is outstanding that female Dalits, who are discriminated against for being women, for being Dalit as well as for being Dalit women, held half of the seats obtained by Dalits and almost 13 per cent of those obtained by women. Considering 78 seats Dalits should have obtained, both female and male Dalits were still 14 seats short for proportionate representation in the CA (see table 27).

Regarding the composition of 78 seats, both Hill and Terai Dalits came short of proportionate representation in the CA. Hill Dalits needed an extra 15 seats while Terai Dalits 13 seats based on their population ratios. Out of 50 seats Hill Dalits did represent slightly disproportionally within the Dalit community. They held 72 per cent of Dalit seats (33) while comprising 65 per cent of the Dalit population whereas Terai Dalits, comprising 35 per cent, held 28 per cent in the CA. Still, it was more than 16.67 per cent Terai Dalits obtained in the predeceasing body, the Interim Legislature-Parliament.

18 out of 26 castes within the Dalit community could not find representation in the CA. Unlike the composition of the Interim Legislature-Parliament, Bishwakarma was included in relatively fewer numbers in the CA. Even though Bishwakarma was still the largest representing Dalit community with 16 seats, it no longer reflected its relative size of the Dalit population. Notably, Mijar with 10 members, received one more seat in the CA compared to its population ratio. While the share of the Mijar population of Nepal was 1.4 per cent, its share of the 601 seats in the CA was slightly more with 1.66 per cent.

Table 27: Caste Wise Dalit Representation in the Constituent Assembly

Caste	Seats in CA	Share out of 601 Seats	Share of Population of Nepal	Proportionate Representation
Gaine	0	-	0.03%	0.16 (0)
Pariyar	10	1.66%	1.72%	11 (-1)
Badi	0	-	0.02%	0.12 (0)
Bishwakarma	16	2.66%	4.3%	28 (-12)
Mijar	10	1.66%	1.4%	9 (+1)
Pode	0	-	NA	NA
Chyame	0	-	NA	NA
Kalar	0	-	NA	NA
Kakaihiya	0	-	NA	NA
Kori	0	-	NA	NA
Khatik	0	-	NA	NA
Khatwe	0	-	0.33%	2 (-2)
Chamar	3	0.50%	1.19%	8 (-5)
Chidimar	0	-	0.05%	0.35 (0)
Dom	0	-	0.04%	0.25 (0)
Tatma	1	0.17%	0.34%	2 (-1)
Dushad	6	1.00%	0.7%	4 (+2)
Dhobi	2	0.33%	0.32%	2 (0)
Pasi	0	-	NA	NA
Bantar	2	0.33%	0.16%	1 (+1)
Mushahar	0	-	0.76%	5 (-5)
Halkhor	0	-	0.02%	0 (0)
Sarbhang	0	-	NA	NA
Natuwa	0	-	NA	NA
Dhandi	0	-	NA	NA
Dharikar	0	-	NA	NA

Adapted from Election Commission 2008; CBS, 2002; numbers and percentages are based on authors' analysis

Dushad held six seats, two more seats than based on its population ratio. While the share of the Dushad population of Nepal was 0.7 per cent, its share of the 601 seats in the CA was more with 1 per cent. Tatma and Dhobi together held three seats, half the number of Dushad, even though their combined population matches with that of Dushad. Of course, considering the historic exclusion of Mijar and Dushad in earlier periods, such form of constructive representation can only be seen as a positive sign towards the inclusion of dispossessed subgroups.

Musahar and Khatwe did not obtain a single seat in the CA and have thus far been mostly absent in political institutions. Based on the share of their populations in the country, Musahar would have received five seats while Khatwe two. Communities with relatively low populations like Chidimar, Dom, Badi, Gaine and Halkhor (CBS, 2002) also failed to find representation even among 601 members of the CA. Including those communities would only have been possible through preferential treatment, reservations within reservation that go beyond population ratio or proportionate representation. Two members of the Bantar community obtained seats in the CA, twice as many as their population ratio. While the share of the Bantar population of Nepal was 0.16 per cent, its share of the 601 seats in the CA was 0.33 per cent. Bantar was the exception to the fact that less populous Dalit castes could not find representation in the CA.

The mixed electoral system gave different results for members of various Dalits groups and communities, not only because of the distinctions inherent the electoral system that incorporated both methods of FPTP and PR, but also due to discrepancies in inclusive policies and party candidacy.

The Mixed Election of the Constituent Assembly and Dalit Women, Terai Dalits and Castes

The Constituent Assembly Election Act of 2007 required 33 per cent of all candidates of combined FPTP and PR electoral method to be female. This was a substantial increase compared to 5 per cent gender

quota for candidacy in the 1990s parliamentary elections. As a result one third women representation was ensured in the CA. But without further specification, most parties preferred to include women under the proportional voting method rather than under the FPTP. Of all 3,964 contesters under FPTP, only 386 (9.28 per cent) were female while almost half of 5,701 candidates under PR were female. Similar to the candidacy of women, most Dalit women put forward by contending political parties were included under PR rather than FPTP. In fact, Dalit women comprised 47.24 per cent of Dalit candidacy under PR compared to 11.22 per cent under FPTP (see table 28).

Table 28: Female and Female Dalit Candidacy in the Constituent Assembly Election

	1990s	CA (FPTP)	CA (PR)
Female candidates out of total candidates	304/5025 (6.05%)	368/3964 (9.28%)	2821/5701 (49.49%)
Female Dalit candidates out of total female candidates	2/304 (0.66%)	22/368 (5.98%)	257/2821 (9.11%)
Female Dalit candidates out of total Dalit candidates	2/126 (1.59%)	22/196 (11.22%)	257/544 (47.24%)

Adapted from Election Commission, 2008; number and percentages of female Dalits are based on authors' analysis

Interestingly, 11.22 per cent Dalit women out of Dalit candidacy under FPTP was higher than that of women out of total candidates comprising of 9.28 per cent. It was also a substantial increase compared to candidacy in the 1990s elections during which Dalit women made only 1.59 per cent of Dalit candidates. Dalit women similarly made close to half of Dalit candidates under PR. The Election Act had stipulated that under PR half of Dalits included in the party lists were required to be women (The Constituent Assembly Election Act, 2007: art. 7 (3), Schedule 1), which was enforced by the Election Commission (2008). All major parties - CPN-Maoist, NC and CPN-UML, included Dalit women in the closed lists as scheduled. This also compelled Madhesi and Dalit led parties to include Dalit women while preparing their lists under PR.

Under FPTP, it was only because of the Maoists that Dalit women got elected despite the lack of specific reservations in electoral law. CPN-Maoist included five Dalit women while preparing the closed list. Two Dalit women from the party, Durga Kumari B.K. (at the time 26 years old) and Sita Devi Boudel, were among seven elected Dalits and 29 elected women under FPTP. They were the first Dalit women of Nepal to be elected under this voting method. *Janamorchha Nepal* also proved inclusive towards Dalit women by providing party tickets to five such candidates. NC and CPN-UML, however, did not include any Dalit women while preparing their lists. Notably, Dalit led parties did not show inclusive towards Dalit women under FPTP. The *Dalit Janajati Party* put forward only one female out of 32 Dalit candidates. The only Dalit candidate of *Nepal Dalit Shrameek Morcha* (under FPTP) was male.

Despite the lack of provisions to include Terai Dalits in electoral law, Terai Dalits comprised of 47.45 per cent of Dalit candidacy under FPTP (see table 29).

Table 29: Hill and Terai Dalit Candidacy in the
Constituent Assembly Election

	1990s	CA (FPTP)	CA (PR) ²⁷
Terai Dalits	44.8%	47.45%	28%
Hill Dalits	55.2%	52.55%	72%

Adapted from Election Commission, 2008; number and percentages are based on authors' analysis

This was also a trend in the 1990s elections. It seems that the FPTP electoral system did allow the regional dispossessed subgroup to run for office. Mahendra Paswan from CPN-Maoist was the only elected Terai Dalit out of seven Dalits under FPTP in the CA election. Notably, Terai based parties were not inclusive towards Terai Dalits. The electoral successful *Madhesi Janadhikar Forum* (MJF) and *Terai Madhesi Loktantrik Party* (TMLP), together putting forward 197 candidates under FPTP, failed to include any Dalits among their ranks.

²⁷ 59 out 544 (10.85%) Dalit candidates under Proportional Representation were unidentified.

The centrally prepared party lists under PR (through which 43 out of 50 Dalits were elected) included relatively fewer Terai Dalits than local constituencies of FPTP. Only 28 per cent of Dalit candidacy under PR was Terai Dalit. As was the case with the FPTP method, electoral law did not make a separate schedule for Terai Dalits under PR. Schedule 1 of the Election Act only specified the “proportional inclusion” of Dalits while preparing the closed list, out of which half needed to be women.

Electoral law did ensure the inclusion of Terai Dalits indirectly. Clause 7(14) of the Constituent Assembly Election Act (2007), governing the closed list of candidates under PR, obligated parties contesting for more than 20 per cent of seats to be proportionally inclusive towards Dalits. This ensured Madhesi parties, with support bases in the Terai that constitute more than 20 per cent of the population of Nepal, to be proportionally inclusive towards Dalits under PR. Earlier, the *Madhesi Morcha* (Madhesi Front), a front of three political parties - MJF, TMLP and *Sadbhavana Party* (a splinter party of the *Nepal Sadbhavana Party*), formed just before the CA election, wanted to change this threshold for granting ‘flexibility’ to parties contesting for less than 30 per cent. In the end, electoral law was not amended even though the government had initially agreed to the demand in February 2008, a month before the election (Interview with Shyam Sundar Sharma, Joint Secretary Election Commission, 3 November 2009). Consequently, Madhesi parties had to be proportionally inclusive towards Dalits. If the amendment demanded by the *Madhesi Morcha* would have been made, those parties that choose not to put forward any Dalits under FPTP could also have chosen to exclude Terai Dalits under PR.

Among the Dalit led parties, there was a divide in including Terai and Hill Dalits. Similar to the 1990s elections, candidacy in the CA election of *Nepal Dalit Shrameek Morcha* was dominated by Hill Dalits, showing that Dalit led parties also run the risk of excluding subgroups within the Dalit community. In fact, all 36 Dalit candidates under both FPTP and PR were Hill Dalits while none of Terai. Contrastingly, candidacy of *Dalit Janajati Party* was dominated by Terai Dalits. 22 (68.75 per cent) out of 32 Dalit candidates under FPTP were of Terai while it was 20 (57.14 per cent) out of 35 under PR.

The caste wise inclusion of Dalit candidacy under FPTP of the CA election was, with some exceptions, similar the elections of the 1990s (see table 30).

*Table 30: Caste Wise Dalit Candidacy in the
Constituent Assembly Election*

Caste (% of Dalit population)	1990s	CA (FPTP)	CA (PR)
Pariyar (14.16)	16 (12.7%)	25 (12.76%)	72 (13.24%)
Badi (0.16)	-	-	5 (0.92%)
Bishwakarma (34.62)	43 (34.62%)	57 (29.08%)	239 (43.93%)
Mijar (11.4)	3 (2.38%)	11 (5.61%)	30 (5.51%)
Pode (NA)	-	2 (1.02%)	1 (0.18%)
Chyame (NA)	-	-	1 (0.18%)
Kori (NA)	-	1 (0.51%)	-
Khatwe (2.72)	3 (2.38%)	4 (2.04%)	5 (0.92%)
Chamar (9.8)	17 (13.49%)	25 (12.76%)	35 (6.43%)
Dom (0.32)	-	-	4 (0.74%)
Tatma (2.78)	2 (1.59%)	5 (2.55%)	12 (2.21%)
Dushad (5.75)	15 (11.59%)	29 (14.80%)	41 (7.54%)
Dhobi (2.66)	3 (2.38%)	2 (1.02%)	11 (2.02%)
Pasi (NA)	-	1 (0.51%)	3 (0.55%)
Bantar (1.3)	3 (2.38%)	5 (2.55%)	10 (1.84%)
Musahar (6.25)	7 (5.56%)	12 (6.12%)	14 (2.57%)
Dharikar (NA)	1 (0.79%)	-	-
Halkhor (0.13)	-	-	1 (0.18%)
Unidentified Dalits	12 (9.52%)	16 (8.16%)	60 (11.03%)
Total Dalits (100)	126 (100%)	196 (100%)	544 (100%)

Adapted from Election Commission 1992; Election Commission 1995; Election Commission 1999, numbers and percentages of Dalit castes are based on authors' analysis

Out of 126 Dalit candidates of the 1990s elections 11 castes were included while 13 castes were included out of 196 Dalit candidates of

the CA election under FPTP. Bishwakarma was included in relatively fewer numbers than their population ratio within Dalits. They comprised of 29.08 per cent of Dalit candidacy while constituting 35.47 per cent of the Dalit population. Dushad comprised of 14.8 per cent of Dalit candidates while constituting only 5.75 per cent of the Dalit population. Mijar comprised of 5.61 per cent of Dalit candidacy. It came short as Mijar constitutes 11.4 per cent of the Dalit population. Both NC and CPN-UML failed to give a single party ticket to any member of Mijar under FPTP. It was due to CPN-Maoist that members of Mijar –Sita Devi Boudel, Gopi Bahadur Sarki and Tej Bahadur Mijar, could get elected under FPTP (see Table 30).

The mixed electoral system gave mixed results. The caste wise composition of Dalits in the closed party lists under PR was different compared to candidacy under FPTP. The 544 Dalit candidates in the party lists included 16 out of 26 castes. Unlike Dalit candidacy under FPTP, Bishwakarma was included in more numbers than their relative size of the Dalit population. They comprised of 43.93 per cent of all Dalit candidates under PR. Chamar made up less under PR than their relative size. Some castes were neglected in the electoral process as there were no provisions in electoral law to ensure their proportionate representation. Some members of Musahar, Khatwe and Badi were picked up by the parties yet none of them got elected. This way, some Dalit subgroups with strong histories of deprivation and memories of discrimination were left excluded from a body with a mandate of both legislation and constitution writing.

The Mutual Relationship of Dalit Representatives with Dalit Represented

There is growing awareness among Dalit representatives regarding the discrepancies and acts of discrimination that exist and take place within the Dalit community. Shambhu Hajara Paswan Dusadh, Chairman of the Committee for Determining the form of the Government of the dissolved CA and a Terai Dalit, acknowledges that caste-based discrimination and disproportionate representation in the political process are problems faced inside the Dalit community. Yet he is firm

in saying that “there is often interaction between the over represented and the under represented” (Interview with Shambhu Hajara Paswan Dusadh, 6 March 2012). This takes place both among representatives from different groups as well as between the representatives and represented. Notable Dalit representatives from the major parties - Biswa Bhakta Dulal ‘Ahuti’ (Unified Communist Party of Nepal-Maoist (UCPN-Maoist)), Man Bahadur Bishwakarma (NC), Ganesh B.K. (CPN-UML), Sita Devi Boudel (UCPN-Maoist), Min Bahadur Bishwakarma (NC), Lal Bahadur Bishwakarma (CPN-UML), Padma Lal Bishwakarma (UCPN-Maoist) and Shambhu Hajara Paswan Dusadh (NC) state that, being first generation leaders that have experienced the same hardships as their fellow group members, they have strong mutual relationship with the Dalit community.

Man Bahadur Bishwakarma, Central Working Committee member of NC, asserts that he often mobilises himself to interact with the most disadvantaged Dalits like Terai Dalits and members of the Badi community:

As an informed leader of Dalit community, I have been insisting my party leadership to create more and more spaces in order to provide opportunity for those Dalits who are most marginalised among Dalits. We need more and more dialogue between Dalits as we, also, do not have all knowledge about our own community. This will help understanding each others problems (Interview with Man Bahadur Bishwakarma, 12 March 2012).

In the eyes of Shambhu Hajara Paswan Dusadh, the Dalit movement in the Terai has been a movement of those most excluded:

We have started our movement from Sarlahi District [Terai], and it was not for pressing the concerns of dominant Terai Dalit castes. It has instead been to assert against the discriminatory practices faced by Chamars, Musahars and other most marginalised communities of Terai (Interview with Shambhu Hajara Paswan Dusadh, 6 March 2012).

Min Bahadur Bishwakarma, currently active in the Central Working Committee of NC, explains that he often travels to the rural areas to interact with the most disadvantaged Dalits: “I regularly request local leadership to bring the marginalised groups in proportionate numbers when the party [NC] organises trainings and orientations” (Interview with Min Bahadur Bishwakarma, 12 March 2012).

Dalit delegates from different parties and backgrounds assert that the real solution in guaranteeing the representation of dispossessed subgroups within the Dalit community is “quota within quota” or “reservations within reservation” (Interviews with Biswa Bhakta Dulal ‘Ahuti’, 26 March 2012; Sita Devi Boudel, 29 May 2012; Min Bahadur Bishwakarma, 6 March 2012; Lal Bahadur Bishwakarma, 9 March 2012). Dalit civil society leaders - Durga Sob and Bhakta Bahadur Bishwakarma, also recognise that only through ‘subgroup reservations’ the emancipation of all Dalits can be ensured (Interviews with Durga Sob, 30 May 2012; Bhakta Bahadur Bishwakarma, 22 May 2012). Bhakta Bahadur Bishwakarma states:

Based on the size of their population, each and every caste of the Dalit community should get their proportional share. In this regard, there is almost consensus among Dalits (Interview with Bhakta Bahadur Bishwakarma, 22 May 2012).

The principle of proportional representation (of groups) can help excluded yet populous communities like Khatwe and Musahar to find representation in political institutions. But less populous ones will not benefit from reservations within reservation if based solely on the size of their population. To overcome this problem, preferential treatment going beyond population ratio that looks into the extent of exclusion, is required. Biswa Bhakta Dulal ‘Ahuti’, Standing Committee member of UCPN-Maoist, reveals they are working on a ‘special package’, “so that the most marginalised Dalits can have equal status compared to others; only then will proportional sharing elevate Dalit groups” (Interview with Biswa Bhakta Dulal ‘Ahuti’, 26 March 2012). Sita Devi Boudel, former member of the CA from UCPN-Maoist, similarly argues in favour of preferential treatment that goes beyond proportional representation of subgroups. She declares that: “We need and are trying to find a way so that the most marginalised Dalit groups get available benefits in priority” (Interview with Sita Devi Boudel, 29 May 2012).

Reservations within reservation with preferential treatment of dispossessed yet less populous subgroups can help to address exclusion within the Dalit community. However, it can also downplay

other criteria for Dalit posts in political office. In this regard, Hira Bishwakarma, a Dalit intellectual of civil society, brings in a view deviating from others. According to him, “contribution and sacrifice” should be basic criteria for Dalit representatives (Interview with Hira Bishwakarma, 8 March 2012). Confronted with the common expression “Bishwakarmas are the Brahmins of the Dalit community”, he states:

Today Dalits have started to see the available opportunities. They seem to have a feeling that they will get the top most positions if there is a doorway to power. Before making such statements, a consideration should be made of how much a community has contributed in history. Historical evidence reveals that among the Dalit martyrs of the Maoist insurgency, more than half came from the Bishwakarma community. What I want to say is that we should also analyse contribution and sacrifice at a time of difficulties and turmoil before spreading this kind of rumours. There is a trend to run away from responsibility when faced by risks and personal danger. But the same person will not in the least be hesitant to do everything to grab any available opportunity created by the contribution and sacrifice of others. This is, in my opinion, not a positive way (Interview with Hira Bishwakarma, 8 March 2012).

The domination of Bishwakarma is a commonly expressed concern within the Dalit community. The absolute numbers of Bishwakarma has superseded those of other Dalit communities in most political bodies. But in the late CA, Bishwakarma did not dominate and the relative numbers of Bishwakarma were considerable less than its share of the Dalit population. Today, no single Dalit community or sex dominates at the expense of other Dalits in Nepal, even though issues of under representation, of exclusion of dispossessed subgroups, remain.

A real danger of elitism, of a formation of ‘Dalit Brahmins’ seems to be generational in nature. Histories of deprivation and memories of discrimination will not only differ within the Dalit community but will also change across generations. Presently, Dalit representatives are the first generation who have accessed the structures of the state. Ideally, historical disadvantages of Dalits will be left in the past within a generation, but this might not be the case. The link with inclusion, the mutual relationship of second and third generations Dalit leaders will determine the future of Dalit representation. Second generation leaders might in time unduly benefit personally from

reservations, their top positions in state governance, while their sons and daughters might receive excellent education abroad. The question will then be how strong the link of those Dalits, well qualified in education, remains with their community. They are Dalit because of their fathers and mothers but know little about the hardships of 'their community' except perhaps through stories told by their grandfathers and grandmothers. Ultimately, qualification has to be based on more than formal education alone. There is need to take into consideration not only the inclusion of dispossessed subgroups but also safeguards that ensure those Dalits that have experienced the hardships of being Dalit will continue to have the same opportunity to join political life.

As important as it is to consider the internal diversity and differences of Dalits in Nepal, effective representation can only be ensured through a common stance on issues and concerns Dalits have in common and share. Inclusion of all Dalit subgroups will lead to more complete representation, but stressing differences should not stand as barriers in the way of achieving common aims. Maine Achhame, female Dalit leader of CPN-UML and member of the party's Dalit sister wing, declares:

We all are Dalit. I do not want to do caste politics inside the Dalit community. Neither have I done caste politics before nor will I do so in the future. Each and every caste within the Dalit community is Dalit and they have all been suffering from untouchability. I have boycotted various caste based meetings. I do not want to divide Dalits (Interview with Maine Achhame, 9 March 2012).

Chapter 5

FROM PARTY TO COMMUNITY: POLITICAL AND INSTITUTIONAL SPACE

Effective representation of historically disadvantaged groups cannot be guaranteed without creating a space in the structures of the state. Such a space is, however, not limited to legislative and executive bodies. B.R. Ambedkar argued that a separate Dalit led political party specifically and uniquely representing Dalit interests is vital for the meaningful representation of Dalits in South Asia. In India, especially since the 1990s, Dalit led parties have increasingly established Dalit support bases. In Nepal, some Dalits have tried to form similar political organisations. In 1991, *Dalit Mazdoor Kissan Party* (Dalit Workers and Peasants Party) registered and contested for the general election, making it the first Dalit interest party founded in Nepal. Notwithstanding, its leadership was mixed with members from other castes and ethnicities and the only candidate it put forward in the 1991 general election was

non-Dalit. After receiving a disappointing 92 votes in the election, the party fragmented. Some of its members, under leadership of Rup Lal Bishwakarma, founded the *Nepal Dalit Shrameek Morcha* (Nepal Dalit Labourers Front) in 1993. The party was registered and contested for the 1999 election. It put forward 22 Dalit candidates but failed to secure any seat in the House of Representatives. It again contested in the 2008 election of the Constituent Assembly (CA), but similarly failed to win any seat. *Dalit Janajati Party*, asserting for the rights of Dalits and Indigenous Communities in Nepal that also contested for the CA election did succeed in securing one seat. Bishwendra Paswan, a Dalit leader formerly associated with Communist Party of Nepal- Unified Marxist Leninist (CPN-UML), had established the party just before elections. By meeting the electoral quota, the number of votes necessary for a party to have received one seat in the elected body, he subsequently became member of the CA.

Party Space for Dalits

Constitutional provisions and electoral law have created barriers for the formation of a party oriented exclusively towards a particular caste or ethnicity. The 1990 Constitution declared that “persons committed to a common political objective and programme may form and run a political organisation or party of their choice” (art. 112). However, it barred the formation of a party professing a single party ideology or a party formed on the basis of religion, community, caste, tribe or region. Such provisions are retained by the 2007 Interim Constitution. It has instructed the Election Commission not to register:

Any political party or organisation which discriminates against any citizens of Nepal in becoming its member on the basis of merely of religion, caste, tribe, language or sex or the name, objective, insignia or flag of which is of such a nature as to jeopardise the religious and communal unity of the country or to fragment the country or constitution or rules of such party or organisation have the objective of protecting partyless or single party system (Interim Constitution of Nepal, 2007: art. 142 (4)).

By virtue of safeguarding communal harmony a ban was effectively placed on the formation of a political party exclusively representing the interests of the Dalit community. The Dalit led parties that were formed

circumvented this ban on parties based on caste by incorporating the term 'labourers front' or 'peasants party' in the name. Parties like *Nepal Dalit Shrmeeek Morcha* and *Dalit Mazdoor Kissan Party* were formed to plead the cause of Dalits, however, they deliberately made their names so not to be construed as sectoral parties. The ban is formally still in place. The electoral rules and regulations for political parties state:

The party will not be registered if its name, objectives, insignia or flag is of a nature that would disturb the religious or communal harmony (Election Commission, 2008).

It can be questioned whether a limitation "to form and run a political party", as framed in its present form, is still appropriate for inclusive democracy in Nepal.

The Dalit led parties that have registered for general elections have so far not been successful in mobilising Dalit voters. The established political forces have monopolised electoral politics (Kumar, 2010). Before the installment of a mixed electoral system for the CA, all general elections in Nepal have been based exclusively on a First-Past-The-Post (FPTP) voting method. This has concentrated seats and resources in the major parties, proving a major obstacle for Dalit led parties in organising and obtaining seats in the legislature. Dalit led parties, with the exception of the single seat the *Dalit Janajati Party* secured in the CA, have not won sufficient votes for meeting the electoral quota even if, hypothetically, a fully proportional electoral system had been in place.

A main obstacle for the electoral success of Dalit led parties is the relatively fixed support bases of the major political parties. If Dalits would have preferred to vote for Dalits rather than others, it would be expected that between 10 and 20 per cent of the votes cast, depending on the particular population of Dalits in the constituency, would have gone to a candidate from a Dalit led party or a Dalit candidate. This way, Dalit candidates would on average rank second or third in their respective constituencies. It would be in accordance with the population ratio of Dalits. However, this has not been the case. In the general elections of the 1990s, 126 Dalit candidates on average ranked 8th, ranging from 1 to 28. The five Dalits put forward by the major parties - Nepali Congress (NC) and CPN-UML, on average ranked

3rd. This compared to an average ranking of 7th of 22 Dalit candidates from *Nepal Dalit Shrameek Morcha* and 9th of 36 independent Dalit contestants. Under FPTP of the CA election, 196 Dalit candidates on average ranked 12th, ranging from 1 to 41. Dalit testers from the three major parties –Communist Party of Nepal Maoist (CPN-Maoist), CPN-UML and NC, on average ranked 3rd while Dalits put forward by Dalit led parties ranked 11th. Independent Dalit candidates ranked 19th. Similar to the 1990s general elections, voters in the CA election did not show preference to vote for Dalit candidates unless affiliated with one of the major parties.

It may be early to predict on the basis of *Dalit Janajati Party's* entrance in the CA with a few thousands votes that the monopoly of major parties in mobilising Dalit voters is lessening while the significance of Dalit led parties is growing. This trend has nevertheless been apparent with other previously excluded communities of Nepal, especially the Madhesi parties of the Terai - *Madhesi Janadhikar Forum* (MJF) and *Terai Madhesi Loktantric Party* (TMLP), have proved an electoral success, together securing 72 seats in the CA. Indeed, a change in political and electoral discourse from individual equality to the inclusion of historically disadvantaged groups, even when propagated by major parties, will logically result in gradual change in voting behaviour. Similarly, there is tremendous pressure from Indigenous Communities to form a party of their own by revolting from CPN-UML and NC. This could make the official ban on the registration and contestation of caste and ethnicity based parties more problematic in the future.

Now and in the foreseeable future major political parties will remain integral in ensuring Dalit representation. Indeed, it was through the major political forces that the Dalit movement gained momentum. Biswa Bhakta Dulal 'Ahuti' from UCPN-Maoist states:

Though the Dalit movement has 62 years long history, it was not considered as a major social movement in Nepal till the 1980s. It was due to the fact that the Dalit movement had no connection with other political movements, and no leadership was provided by political parties. As a result, the Dalit agenda was not in the fore with either the democratic or left political forces. It was only in the 1980s that the Dalit movement got momentum; when it could draw attention of major political forces. Then onwards, Dalit concerns have become

a central issue of Nepalese politics ... Now the Dalit movement has become an adult (Interview with Biswa Bhakta Dulal 'Ahuti', 26 March 2012).

Sufficient political space for Dalits as well as institutional space for Dalit representatives to represent their community can only be ensured with, by and through the established political parties. The process of including Dalits in the leadership of major parties began with the dawn of democracy. NC stood in the vanguard during the popular revolt of 1951 that introduced a multi-party democracy in the country. NC, the party known for having members from all tiers of Nepalese society, also stood up for including Dalits among their ranks (Paramand, 1982; Joshi & Rose, 1966). Dhanman Singh Pariyar had been nominated by NC for the 1952 Advisory Assembly while Saharsha Nath Kapali was put forward by NC for the 1959 Upper House, becoming the first Dalit legislatures of Nepal. The party also incorporated Dalits in the structures of the party (Pyakurel, 2012). When NC was established in 1946 in India, D.B. Pariyar was one of its founding members. During the second convention of NC in 1952, Dhanman Singh Pariyar became the party's General Secretary (Bishwakarma, 2006: 256), making the party not only the first to include Dalits in its Central Executive Committee, but also in the position of top leadership.

After the ban on political parties was put in place by King Mahendra in 1960, political parties were forced to continue their activities underground. 30 years of autocracy did not benefit the internal democracy and transparency of political parties even though the same parties fought for the restoration of democracy. As parties were officially abolished during the Panchayat period (1960-1990), no rules or regulations were in place for adhering to general conventions, internal elections or open and transparent party meetings. When the parties again stood in the frontline for democracy in the April 1990 People's Movement, multi-party democracy was restored. The 1990 Election Commission, the body that needed to safeguard the holding of free, open and fair elections, stipulated that:

The constitution and the rules of the organisation or party shall provide elections for the office bearers of the organisation of party every five years ... Such political organisation or party must adhere to the norms of democracy (Election Commission, 1992: 15).

Notwithstanding, the lack of democratic norms and transparency within political parties continued. The traditional over representation of 'upper castes' continued, reinforced through patron-client relationships. This created a great barrier for Dalits in a parliamentary democracy to be represented in either legislature or executive. During the second democratic period (1990-2006) major parties failed to implement inclusive provisions in party constitutions, party regulations or even in ad hoc party decisions. Between 1990 and 2002, the Central Executive Committees of the major parties did not include a single Dalit. Only two Dalits became member of the central executive body of major parties. Chabbilal Bishwakarma became Politburo member of CPN-UML in 2003. In 2005 Man Bahadur Bishwakarma became member of the Central Working Committee of NC.

The restoration of formal democracy in 1990 did provide a foundation for Dalit assertions for rightful representation. Man Bahadur Bishwakarma, former Minister of State from NC, sees the April 1990 movement as the turning point for Dalits in Nepal: "Since the reinstatement of democracy in Nepal, Dalits have not only been able to organise themselves but also raise their voices through various forums. We find the impact of those freedoms today (Interview with Man Bahadur Bishwakarma, 12 March 2012)." The statement might seem out of place as it was only after 2006 that Dalits were included in Nepal's political institutions and central party committees, in significant numbers. Yet it was during the second democratic period that the platforms and organisations were established that allowed space to fight openly for Dalits.

The 1990 Constitution safeguarded individual equality and fundamental freedoms, enshrining the freedom of association and freedom of the press while ensuring for regular elections. Democratic institutions and equality before the law created a more open environment for Dalit assertions and helped to give a voice for Dalits in the political process, even though this say was mostly consultative. Despite the fact that established parties failed to include Dalits in the Central Executive Committees, they did form Dalit fraternal organisations, the so-called sister wings. It was also during the second democratic period that the National Dalit Commission (NDC) was

founded, asserting for civil and political rights of Dalits.

Shortly after the Maoist insurgency, established political parties started to form Dalit sister wings for the representation of Dalit interests. *Nepal Dalit Sangh* (Nepal Dalit Organisation), affiliated with NC, was established in 1998 while *Nepal Udpedit Jatiya Mukti Samaj* (Nepal Depressed Caste Liberation Society) affiliated with CPN-UML was formed in 1999. The formation of the such wings enhanced interaction and communication between Dalits of different region, sex and caste. They fostered a mutual relationship with the Dalit community. As Dalits lacked any representation in the central party committees, it also gave Dalits a voice in party decision making. However, the mandate and influence of the sister wings in outlining party priorities and strategies have been and remained very limited. In addition, the party affiliated Dalit organisations have remained tightly bound within the particular party's ideological framework. As a result, they have had difficulties in setting a common agenda of Dalits while their role has effectively been limited to a consultative one. It seems that the formation of Dalit sister wings gave perceived legitimacy to established political parties in a time of conflict and continued exclusion. Ultimately, their existence cannot be a justification to keep Dalits outside central party leadership.

In 2002, prime minister Sher Bahadur Deuba established NDC under chairmanship of Padam Singh Bishwokarma. The Commission has not only advocated for the proportional representation of Dalits but has also asserted to increase "the active participation of socially, economically, educationally and politically most marginalised Dalit community" (www.ndc.gov.np). One of its main objectives is "influencing political parties and their leaders to make them Dalit friendly as political parties are prime drive of the state in multi-party democratic system..." (Ibid.). But contrary to what the name suggests, NDC is not a statutory body, it was established by an executive decision of the government. A statutory body is an authority by law, which could initiate legislation and subrogate parliament in a more efficient and appropriate manner for its special purpose. Such authority has, as of yet, not been given to NDC, limiting its role to consultation mainly.

Internal Party Democracy

Recruitment policy of the parties, particularly in selecting the leadership cadres, continue to lack transparency and democratic norms. It has not been driven by broadening the social base. Parties fail to hold regular meetings and conventions and a few top leaders still control decision making (UNDP, 2009: 7). The same small groups has held key positions in both the party and the government for the past two decades. Puspa Kamal Dahal 'Prachandra' and Baburam Bhattarai have formed the top leadership of the Maoist party since its conception while Sher Bahadur Deuba has been in the top leadership of NC for over a decade. Similarly, Sushil Koirala of NC was appointed General Secretary in 1996, Vice-President in 1998 while President in 2010. In CPN-UML, Madhav Kumar Nepal was elected General Secretary in 1993 during the party's fifth general convention, a post he has maintained until 2008. Late Man Mohan Adhikari, who took part in the founding of the Communist Party of Nepal was elected as Chairperson in 1993, a post he held until his death in 1999.

Without firm checks in party constitutions and in electoral rules, even organisations formally committed to democracy will be dominated by a ruling elite.²⁸ The deficiency in internal democracy has given few incentives for including members of historically disadvantaged groups. Only very recently have Dalits started to be represented in the central party committees of major political parties. In fact, no Dalit has asserted to the top leadership of any of the established parties since Dhanman Singh Pariyar in 1952. Currently, the Election Commission stipulates, similar to the electoral rules and regulations of the second democratic period, that "Parties must be democratic" and "Parties are expected to hold internal election for its office bearers every 5 years" (Election Commission, 2008). But such statutory provisions have remained only as technicalities. Political parties should function as an essential intermediary between the state, society and the communities that constitute society. Party elections are just as vital for ensuring inclusive democracy as elections for Parliament. A few top leaders should not be able to manipulate internal party elections.

²⁸ This is known as the iron law of oligarchy of Michels, see Hague and Harrop, 2007.

The major political forces have adopted the discourse of inclusion after the Second People's Movement (*Jana Andolan II*). Both Dalit and non-Dalit leaders contend in crediting their respective parties when asked about the contribution of their political parties regarding the political empowerment of Dalits. Man Bahadur Bishwakarma and Shambhu Hajara Paswan Dusadh claim that Nepali Congress is "more ahead" in bringing policies and programmes for the advancement of Dalits (Interviews with Man Bahadur Bishwakarma, 11 March 2012; Shambhu Hajara Paswan, 6 March 2012). Man Bahadur Bishwakarma states:

Nepali Congress was the first political party which offered the post of party's General Secretary to a Dalit in 1952. It was the party through which a Dalit could be elected and send to the House of Representatives in 1991, and it is the party which has currently reserved the highest percentage of seats in its central committee for Dalits (Interview with Man Bahadur Bishwakarma, 11 March 2012).

Dalit representatives from UCPN-Maoist - Biswa Bhakta Dulal 'Ahuti', Sita Devi Boudel and Padma Lal Bishwakarma, claim that it was the Maoist insurgency that has been instrumental in setting a Dalit friendly agenda in political institutions (Interviews with Biswa Bhakta Dulal 'Ahuti', 24 March 2012; Sita Devi Boudel, 29 May 2012; Padma Lal Bishwakarma, 8 March 2012). Politburo member of UCPN-Maoist, Biswa Bhakta Dulal 'Ahuti' claims that "the People's War" helped Dalits to assert for their rights. He further asserts:

The Maoists had given tickets to 18 Dalit candidates in order to contest the Constituent Assembly election under First-Past-The-Post while Nepali Congress and Communist Party of Nepal-UML gave only one and three candidates respectively. Out of 22 candidates from major parties, seven were elected and all seven were from the Maoists. It is not difficult to collect evidence and prove that the Maoist party is the only party who deliberates and acts in accordance with including Dalits in the political process (Interview with Biswa Bhakta Dulal 'Ahuti', 24 March 2012).

Contestations are not limited to the three major parties. According to *Rastriya Janashakti Party* (a split from *Rastriya Prajatantra Party* (RPP)), leader and former minister Prakash Chandra Lohani, his own party has been concerned more with addressing problems faced by marginalised communities, including Dalits. He states:

One can see our party structure and analyse how Dalit friendly we are. If you ask me about my personal effort, I used to propose inclusive policies even during the Panchayat era (Interview with Prakash Chandra Lohani, 6 March 2012).

He also refers to “the Concept on Forward-Looking Agenda on the Reforms of the State System” presented by His Majesty’s Government during the third round talk with the insurgent Maoists on August 17, 2003 in the Hapure village in Dang district. He further declares that he and his colleagues had initiated the process of creating an egalitarian society by bringing an end to all kinds of inequalities, discrimination and exploitation before the Maoists and NC did (Interviews with Prakash Chandra Lohani, 6 March 2012; Pratab Ram Lohar, 8 March 2012).

Dalit Representation in the Major Political Parties

Major political parties in Nepal are organised on the basis of universal ideologies that talk about democracy, liberalism, socialism, communism, freedom and equality. Accordingly, the state started taking notice of certain sections of the people (children, women and other needy groups) in constitutional provisions. It envisioned that all citizens could have equal opportunity in benefitting from the political change that started in the early 1950s. Though a heavy dose of class approach was noticed in the left-wing parties, each major party derived its cadres and leadership from the same socio-economic backgrounds of the population, the so-called upper castes.

It was only recently that the parties have started to consider the special needs of previously disregarded segments of society, particularly Dalits. This could not be redressed by a legal equalitarian approach only. The Maoist insurgency pushed forward the cause of Dalits very effectively, shaking the very support base that the parliamentary parties like NC and CPN-UML used to enjoy until the 1990s. Following the success of the *Jana Andolan II* and signing of the Comprehensive Peace Accord the issue of rightful representation of Dalits began to surface more than ever in the agendas of major political parties, particularly in their election manifestos.

The Maoists, now Unified Communist Party of Nepal Maoist (UCPN-Maoist), had blamed the state for continuance of exploitative and discriminatory practices towards Dalits and other ‘masses of the people’. This is expressed in its CA election manifesto, sharply in favour of “special rights” for Dalits in the new constitution. It states:

Since the state deliberately marginalised the Dalits from all walks of life including economic, political, socio-cultural, administrative and military, the state will provision special rights for the community unless they are equal to other communities in all sectors. Special provisions will be introduced in order to manage policies and procedures of such special rights (CPN-Maoist, 2008: 33, emphasis added).

The social democratic NC states the need for ‘advancement’ of Dalits in their party’s CA election manifesto of 2008:

It is a special responsibility of the state to end social discrimination and untouchability faced by the Dalit community. Advancement and a rigorous implementation of the existing legal and constitutional provisions are compulsory actions for this purpose. Furthermore, the state has to give special attention in order to increase Dalits’ access to education, health and employment in the new state mechanisms (NC, 2008: 29, emphasis added).

According to the election manifesto of CPN-UML, the state should launch a special campaign in order to deal with the existing malpractices, social superstition and traditional believes related to caste. On the issue of upliftment of Dalits, it is categorical in declaring: “*progressive reservation* policy will be introduced in order to uplift the Dalit community” (CPN-UML, 2008: 32, emphasis added).

Pradip Giri, a thinker from NC who is also considered a Gandhian socialist, conveys that none of the political parties, including his own, have engaged seriously for social justice and equal opportunity of Dalits despite commitments expressed in party manifestos. He states:

The political parties are competing with each other to express their sympathy towards Dalits and other marginalised groups, but these all are in rhetoric sense (Interview with Pradeep Giri, 26 May 2012).

Adequate representation in the central executive bodies of political parties is vital for Dalits as it gives a strong voice in recommending and nominating members for positions in Parliament and the Cabinet. It also gives a say in formulating policies of Dalit inclusion and setting specific quotas in party constitutions, manifestos and decisions. In

addition, it provides a platform for asserting towards top party as well as national leadership. While all parties have recently included Dalits in the central party committees to some degree, Dalits remain under represented based on the size of their population (see table 31).

Table 31: Dalit Representation in the Central Executive Committees of the Major Political Parties 2012

	UCPN-Maoist	NC	CPN-UML
Dalit Members of Total Members	6/138 (4.34%)	6/85 (7.10%)	7/115 (6.08%)
Female Dalits of Total Members	1/138 (0.72%)	2/85 (3.35%)	-
Terai Dalits of Total Members	1/138 (0.72%)	1/85 (1.17%)	2/116 (1.72%)

Compiled by authors

Besides lack of proportional representation in the parties, there are notable differences in the way parties choose to nominate Dalits. Not only the numbers but also the selection process will have a major impact in decision making power.

In the 11th General Convention in September 2010, NC adopted a resolution on restructuring of the state and inclusive democracy, stating:

State restructuring has been necessary to change the centralised structure by making changes in the present political culture and character of the state to realise democracy. Nepali Congress realises that it is necessary to democratise the state by providing full rights and autonomy to the people for political participation based on equality (NC, 2010).

The party constitution of NC has also provisioned for inclusive procedures in the organisational structure. The party is obligated to appoint Dalits in all party executive bodies, from the central level to the ward, and all 240 of its electoral constituencies to have at least one Dalit member nominated as a general convention delegate (NC, 2010). It has reserved six seats for Dalits in its Central Executive Committee to be elected separately under a quota system, out of which two have to be women. As a consequence, Dalits comprise 7.1 per cent out of 85 elected members of the central committee (see table 32).

Table 32: Dalits in the Central Executive Committee of Nepali Congress

	Name	Procedure
1.	Min Bahadur Bishwakarma	(Dalit quota)
2.	Man Bahadur Bishwakarma	(Dalit quota)
3.	Jiban Pariyar	(Dalit quota)
4.	Sujata Pariyar	(female Dalit quota)
5.	Kabita Kumari Sardar Bantar	(female Dalit quota)
6.	to be nominated	NA

Compiled by authors

NC has not only safeguarded Dalit representation in the party bodies, it has also included a Dalit in the party's discipline committee to oversee the cases relating to abuses and acts of caste based discrimination within the party. Caste-based discrimination takes place in society and it is inevitable that such practices will on occasion take place within political parties even when such parties formally endorse non-discrimination. Such a discipline committee or commission (CPN-UML), in which acts of caste based discrimination can be conveyed and dealt with accordingly, needs to have the power to punish perpetrators and in extreme cases expel from the party. This is vital for Dalits representatives to serve their mandate without constraints. In the discipline committee of NC no complaints have been filed so far. According to Min Bahadur Bishwakarma, Central Working Committee member of NC, incidences that do take place are dealt with informally, without the need for the involvement of the discipline committee (Interview with Min Bahadur Bishwakarma, 11 May 2012). This way, the committee can still make sure that incidences are dealt with or prevented as potential and actual perpetrators don't want their actions to go public. The lack of filed complaints on caste based discrimination could, however, also be explained by the fact that Dalit representatives are reluctant to make their party look bad by filing official complaints of fellow party members.

After the restoration of multi-party democracy in April 1990, CPN-UML became the first party to put forward a Dalit in the central committee. Chhabilal Bishwakarma became member of the Politburo after the 7th General Convention in February 2003. CPN-UML had amended the party's constitution just before its 8th General Convention in February 2009. According to its constitution, party units were required to select one Dalit from each district to the convention as representatives (CPN-UML, 2009).²⁹

In the central committee, 85 were elected as full members and 30 as alternate members (Ibid., 2009). CPN-UML reserved 45 per cent seats for women, Dalits and other excluded groups in the central committee; 52 out of total 115 members would be elected under reservation quotas. The party elected seven Dalits in its 115 member Central Executive Committee, making up 6.08 per cent (see table 33).

Table 33: Dalits in the Central Executive Committee of Communist Party of Nepal-Unified Marxist Leninist

	Name	Full/Alternative Member	Sex
1.	Chhabilal Bishwakarma	Full Member	Male
2.	Jitu Gautam Darji	Full Member	Male
3.	Ram Prit Paswan	Full Member	Male
4.	Bhagwat Bishwasi Nepali	Alternative Member	Male
5.	Dal Bahadur Sunar	Alternative Member	Male
6.	Jagat Bishwakarma	Alternative Member	Male
7.	Rabindra Baitha	Alternative Member	Male

Compiled by authors

However, out of seven Dalit members, four are alternate members and can attend party meetings only when the full quorum of members is absent. Counting only the full working members of the central committee, Dalits make up only 3.52 per cent of its 85 members. Notably, no female Dalits have been included in the party's central committee, even though there are quotas for women in addition to quotas for Dalits.

²⁹ This method helped in bringing 182 Dalits to the 1,820 member convention.

Though the party had included Dalits in the party structure like NC, the *modus operandi* of CPN-UML diverged from that of NC. Rather than providing Dalit membership based on a quota in its constitution and subsequently holding separate elections for Dalit candidates, CPN-UML's leadership first screened for 'eligible' Dalit candidates before deciding how many Dalits to elect. Eligability can easily be translated in loyalty. According to Ganesh B.K. who is member of the discipline commission of CPN-UML, his party provisioned no seats for Dalits in the central committee till recently as leadership was not convinced that there was any Dalit in the party able to perform as a central committee leader. He further explains:

Only when the leadership saw that three Dalits were eligible to be given the opportunity to be in the central committee, the party introduced a policy of reserving three seats [full member] in the central committee (Interview with Ganesh B.K., 4 May 2012).

As luck would have it, not all three Dalit members who were elected were the ones who were deemed 'eligible'.

The Maoist party, despite its commitment towards 'masses of people', did not have any Dalit representation in the Central Secretariat, its top decision making body, until it was dissolved in early 2009.³⁰ The party did include two Dalit members in its 45 member Politburo, the executive body that came after the Secretariat. In January 2009 CPN-Maoist and Communist Party of Nepal-Unity Centre merged and became UCPN-Maoist. It has six Dalit members in the merged 138 member Central Executive Committee making up 4.34 per cent. As the party has had no conventions or internal elections since unification (and since its formation for almost two decades), membership in the central committee has not changed (see table 34).

³⁰ The secretariat was made up mainly of Hill Brahmins and Chhetris as well as Janajati males.

Table 34: Dalits in the Central Executive Committee of Unified Communist Party of Nepal Maoist

	Name	Sex
1.	Biswa Bhakta Dulal 'Ahuti'	Male
2.	Khadka Bahadur Bishwakarma	Male
3.	Anjana Bishankhe	Female
4.	Mahendra Paswan	Male
5.	Maheswar Gahatraj	Male
6.	Jagat Parki	Male

Compiled by authors

UCPN-Maoist has failed to make any inclusive provisions in the party constitution (CPNM, 2009). Failing to hold regular conventions, the party has yet to introduce inclusive policies in form of quotas in the apex body of the party. All Dalit nominations in the central committee have been based on ad-hoc decisions rather than on party rules and regulations. According to former CA member Sita Devi Boudel from UCPN-Maoist, there is ambiguity in party line as only the criteria of 'contribution, commitment and loyalty' discourages Dalits to be in the party leadership. She states:

On the one hand, they [central party leadership] discuss about including Dalits. On the other hand, the fixed criteria for top most leadership, to be in the central level decision making bodies of the party, is used in a manner just to exclude. For example, the Maoist party accepts the contribution of the Dalit community during the Maoist insurgency, but the party is yet to bring a policy to secure Dalit representation in the Standing Committee and Politburo of the party. We want the party to introduce a policy similar to Nepali Congress. Unless such policy is introduced, party leadership may exclude Dalits in the name of contribution, commitment and loyalty (Interview with Sita Devi Boudel, 29 May 2012).

She concludes that:

Unless there is a policy and mechanism based on proportional representation, Dalit nominations in the central level decision making body cannot be seen in a pure positive manner. It will not ensure representation (Interview with Sita Devi Boudel, 29 May 2012).

Dalit nominations based on ad-hoc decisions will not result in the

institutionalisation of inclusive norms and practices in the political parties. It will only reinforce dependency on top leadership, which might lead to continued party tokenism covered by a veil of legitimacy. In this regard separate party elections for Dalit representatives under a quota system as provisioned by the party constitution can better ensure a space for Dalit representatives, by giving a stronger mandate for community representation.

Functioning of Dalit Representatives

How can Dalit representatives stand for, speak and act on behalf of the Dalit community, while remaining loyal to the ideology and leadership of their respective political parties? Dalits associated with the major parties state that Dalit CA members have set the agenda and pressed for Dalit issues in the constitution making process (Interviews with Shambu Hajara Paswan, 6 March 2012; Min Bahadur Bishwakarma, 6 March 2012; Biswa Bhakta Dulal 'Ahuti', 26 March 2012; Ganesh B.K., 4 May 2012, Sita Devi Boudel, 29 May 2012). Maine Achame from CPN-UML states: "They have done well. It is always better to have our own community members in the decision making body. They have raised our problems and issues there (Interview with Maine Acchame, 9 March 2012)."

It was only after the formation of the CA, the body in which Dalits were represented in unprecedented numbers, that the Caste-based Discrimination and Untouchability (Crime and Punishment) Act 2011 was enacted. It was the first law of Nepal that prohibits caste based discrimination in private as well as in public places (NDC & OHCHR-Nepal, 2011: art. 4 (2)), also including a provision to punish offenders outside the country (Ibid.: art. 5 (2)). The Act is the first piece of legislation by Dalit representatives, for Dalit represented and of the Dalit community. Min Bahadur Bishwakarma, Central Working Committee member of NC, says that all 50 Dalit members of the CA were actively involved during the formulation and enactment process of the Act (Interview with Min Bahadur Bishwakarma, 11 May 2012). He is convinced that the Act would not have been so friendly in addressing the specific needs of Dalits without the activities and

efforts of the Dalit delegates. He further states that it was not only a milestone to have all 50 Dalit CA members involved but also necessary to gain sufficient leverage in the Assembly for passing the Act.

Dalits associated with civil society movements as well as non-Dalit scholars, are critical on the role played by Dalit representatives in the decision making bodies (Interviews with Dilliram Dahal, 6 March 2012; Bidhya Nath Koirala, 9 March 2012; Durga Sob, 30 May 2012; Bhakta Bishwakarma, 22 May 2012). According to Hira Bishwakarma of civil society, Dalit members of the CA seem to be “almost inactive” (Interview with Hira Bishwakarma, 8 March 2012). He further questions their eligibility and capability saying that “there are many Dalits in the CA who are uneducated and know nothing about their duty” (Ibid.). He suggests going for fixed criterion in order to recommend qualified candidates for decision making bodies:

Certain basic qualification in the particular field should be fixed and only on the basis of this fixed qualification should Dalits be given an opportunity to represent in the decision making bodies (Interview with Hira Bishwakarma, 8 March 2012).

For Min Bahadur Bishwakarma, the concept of reservation should not signify that everyone has equal sharing everywhere. He states:

It [reservations] should be need-based plus capability-based. A blacksmith, working in his workshop, is not necessarily helped with a blacksmith member in the Constituent Assembly. He would be truly represented if the blacksmith gets easy access to markets for his tools and is able to get a loan with reasonable interest, when there is an environment conducive to continue with his occupation (Interview with Min Bahadur Bishwakarma, 6 March 2012).

He stresses “to find out the right person in the right position” (Interview with Min Bahadur Bishwakarma, 6 March 2012).

Durga Sob extends the argument of Min Bahadur Bishwakarma by stating that when representative politics is indeed the issue of representing the community:

Educational qualification and sound economic backgrounds along with political understanding and articulation are essential. These are some of the basic criteria to be in representative bodies of the state. We can't all of a sudden bring the weakest community or the weaker section of the society at the top. The way reservation policy has been implemented while filling up seats in the Constituent Assembly ridicules affirmative action policy. It has given a ground

to those who are advocating against reservation to argue that such policy destroys everything including the quality of the representative (Interview with Durga Sob, 30 May 2012).

According to Yam Bahadur Kisan, a scholar working on Dalit issues, “the performance of Dalit representatives in the CA has not been good but this is not surprising” (Interview with Yam Bahadur Kisan, 9 March 2012). He argues that “this is the time for numerical representation” not to evaluate and criticise the way Dalit representatives function while acknowledging the need for “qualitative representation of Dalits in the future” (Ibid.). Bidhya Nath Koirala, another scholar knowledgeable on Dalit issues, diverges from this perspective. He states that “the representation of ideas is more important than physical representation” and that the economic status of Dalits need to be redressed first (Interview with Bidhya Nath Koirala, 9 March 2012). To substantiate this argument, he underlines that political activity, particularly electoral politics in Nepal, is costly, unaffordable by most Dalits:

If it is beyond one's economic capability, one has to go for begging politics instead. I can name a couple of Dalits who were brilliant in academics. But once they joined politics, they were nowhere in both politics and academics ... Tilak Pariyar, who used to be a very bold and influential Dalit leader became member of the Constituent Assembly in 2008. Even though he has been elected directly under First-Past-The-Post, he could not perform well. We should take example of those people and try to find the crux of the problem. This is both directly and indirectly related to the economic position of Dalits, which is not favourable for politics (Interview with Bidhya Nath Koirala, 9 March 2012).

While economic status is paramount for mainstreaming Dalits in the political process, political representation can also contribute in reducing poverty through enhanced policy responsiveness. The crux of the problem also lies in the configuration of political institutions.

There is tension between finding qualified candidates with an orientation towards Dalit concerns and interest and ensuring the link with inclusion by finding the most marginalised Dalits. Many uneducated Dalit representatives in the CA stood as alarming. Still, formal education should not be the only criteria and in Nepal's political arena as both educated and uneducated Dalit representatives

have found it difficult to set a Dalit friendly agenda. Ineffective representation is not only due to qualification but also it is about providing institutional space for Dalits. Even when Dalits are qualified their role will be ambiguous when they are forced to follow party line by special party whips.

Institutional Space for Dalit Representatives

Dalits, with a common history of deprivation and shared experiences of discrimination, have a special mandate to represent their community. A responsibility of creating sufficient political and institutional space for Dalit representatives lies in the political parties. This responsibility, also in ensuring adequate representation of Dalits in the structure of the party, has yet to be taken to its full extent. Lack of institutional space to represent the Dalit community, which is further signified by lack of internal party democracy and the institutionalisation of party whips, stand as a major obstacle for Dalits. This is more apparent for Dalit women, having experienced discrimination to a greater extent than Dalit men.

Elected institutions in Nepal are signified by high party discipline. CA members, for example, have repeatedly been pushed into voting in line with party ideology and top leadership by special whips. Whips function as party enforcers. Every major party in Nepal has appointed such whips who press party members, particularly in the legislature, to stand by party position on certain issues and to vote as per the direction of senior party members. For those party members who fail to follow party line, or choose to cross over on issues deemed vital for their community, it can even result in terminating party membership. Representatives elected under FPTP, who have received a mandate directly from their constituency, can continue as legislators even when ousted by the party. This is, however, not the case for representatives elected under Proportional Representation (PR). In Nepal, they are put forward as candidates by the party in a closed list³¹ and can subsequently be removed from office by the party. This way, the incorporation of a

³¹ While the Election Commission of Nepal prescribes political parties to employ a closed list, during the CA elections of 2008 all political parties agreed to use an open lists in which the name lists of candidates is visible for voters casting their ballot.

proportional electoral system in Nepal, while facilitating the presence of Dalits in elected political bodies, also puts extra hold by the party on Dalit representatives mostly elected through PR.

Chief party whips stress the importance of maintaining party discipline. Chief Whip of NC Laxman Ghimire states: "How can a party member elected through votes cast for a particular party and election symbol disassociate himself from the party's decisions and instructions (My Republica, 11 May 2011)." Bim Acharya, Chief Whip of CPN-UML, similarly argues that: "Any organised member of UML as per the party's basic rules is bound to abide by each and every decision of the party" (My Republica, 11 May 2011).

According to Maoist Chief Whip Dev Gurung that when at issue is legislation lawmakers must follow their respective parties' whips even though the same lawmakers, when drafting the constitution, are not compelled to follow party whips: "Party whip is applicable only in Legislature-Parliament but not in the CA. So, all lawmakers are free to cast their votes as per their own independent conviction (My Republica, 11 May 2011)." It can be questioned to what extent the centralised Maoist party goes beyond populist rhetoric and sincerely allows representatives from all historically disadvantaged groups to freely represent their community when constitution drafting is at stake.

Head of the Indigenous Communities Cross-Party Caucus of the dissolved CA Prithvi Subba Gurung from CPN-UML states that representatives are not obliged to abide by party whips:

Representation from ethnic communities in the CA was deemed necessary because party representatives alone are not enough, lawmakers must not be confined only to party rules (My Republica, 11 May 2011).

Dalit representatives from the major parties argue that there is little tension between representing community and party (Interviews with Shambhu Hajara Paswan Dusadh, 6 March 2012; Padma Lal Bishwakarma, 11 March 2012; Biswa Bhakta Dulal 'Ahuti', 26 March 2012; Ganesh B.K., 4 May 2012). When confronted with the question whether Dalit representatives have protested or 'crossed over' in defiance of party policy, they state that their political party are positive towards Dalit concerns. Two reasons are put forward: first, all political

parties accept the fact that Dalits are the most excluded group of Nepal; second, Dalits constitute a significant share of the population. Hence no political party, in the democratic country, that depend on the support of Dalit voters can afford to ignore the interest of such a group.

There are others, however, who criticise political parties for promoting anti-Dalit leadership. Bidhya Nath Koirala states that Dalits are given the opportunity by the parties only if they are legally forced to do so. He further asserts:

Non-Dalits, including the top leaders of the major political parties never provide opportunity for Dalits so that they can work for their own welfare. Leaders nominate Dalits only if they have to fulfil the available quota (Interview with Bidhya Nath Koirala, 9 March 2012).

According to him, the representation of Dalits in political institutions has become representation by the party rather than representation of the community. For that state of affairs, he blames political parties and their whips saying that: "Once the party imposes whip to its members, they cannot assert themselves for their own issues and priorities. That is what has happened to Dalits today (Interview with Bidhya Nath Koirala, 9 March 2012)."

Was the formation of a Parliamentary Forum of Dalit CA members from all political parties a positive step for the effective representation of Dalits? Dalit representatives state that they do not merely follow party line and form a common stance in order to serve Dalit interest. Shambu Hajara Paswan Dusadh states: "We have gone beyond party line during the Kalikot incident in December 2011 [when a Dalit was allegedly killed by non-Dalits]" (Interview with Shambu Hajara Paswan Dusadh). According to him, his own party NC does not want to be seen as a Dalit unfriendly party:

We easily convince our party leadership of our agenda before it comes to a confrontation in Parliament. It is because of our population size which matters in big way in the vote politics. We generally do not need to go against our party (Interview with Shambu Hajara Paswan Dusadh, 6 March 2012).

Man Bahadur Bishwakarma from NC and Padma Lal Bishwakarma from UCPN-Maoist share a similar view. According to them, they, assembling together in the Dalit Parliamentary's Forum, have

been pushing political parties to bring Dalit friendly provisions in the new constitution (Interviews with Man Bahadur Bishwakarma, 6 March 2012; Padma Lal Bishwakarma, 8 March 2012). Padma Lal Bishwakarma illustrated: “We have protested against our party led government when the government tried to decrease Dalit quota in government scholarship (Interview with Padma Lal Bishwakarma, 8 March 2012).”

Protests against the party have remained an extremely rare occurrence. It is possible that most demands by Dalit representatives are pressed within the party before voting takes place. But considering the historical lack of internal party democracy it seems unlikely major parties have suddenly changed all norms and procedures of decision making in such a way and to such an extent that confrontation with the party is no longer necessary.

Lack of institutional space is more apparent for Dalit women. According to Maine Achhame, women inside the Dalit community have a tougher fight than women inside non-Dalit communities, in securing representation. She states:

If we observe the combination of CPN-UML's central committee, we find narrow minds amidst our Dalit leaders. Though the party reserved seats for excluded communities in the central committee, Dalit leadership, which is male dominant, have sent only males (Interview with Maine Achhame, 9 March 2012).

Further sharing her bitter experience on the issue of discrimination within the Dalit community, she says: “Dalit males are even more traditional than men of other community as far as gender inequality is concerned” (Interview with Maine Achhame, 9 March 2012).

Durga Sob not only substantiates the view expressed by Maine Achhame, but also exposes the reality of the status of Dalit women in society: “Dalit males are not gender sensitive at all” (Interview with Durga Sob, 30 May 2012). She further declares: “Dalits are part of Nepalese society with a strong patriarchal mindset. Dalit male are even found more gender insensitive than the male counterpart of other communities (Ibid.).” According to her, participation of women has never been a political agenda of the Dalit movement of Nepal, due to “the fact that the movement is dominated by Dalit males” (Ibid.). In Sita Devi Boudel's personal accord as a female Dalit political actor,

political leadership still has a biased mindset against women:

Our leadership prefers to pick up male member for a position even if there are female members with equal status. The leadership still has a feeling that males are more capable than females. This tendency was there in the past, and still exists today. It is the case with all political parties including my party. It is due to patriarchal and Brahminical beliefs in the party, which needs to be revised (Interview with Sita Devi Boudel, 29 May 2012).

Chapter 6

CONCLUSION AND WAY FORWARD

In Nepal discrimination and favouritism have been deeply rooted and structural barriers have been created and maintained by the state. Dalits suffering from caste based discrimination and untouchability have been entrenched in an age-old caste system that has reinforced hierarchy between 'upper' and 'lower' castes. The adverse effect in the lives of Dalits continues to be observable in their state of human development and has barred them from social, economic and political life. When the country started to embrace democratic values, the community's structural and systematic exclusion was not redressed. The voices of the affected citizens have remained profoundly silent, even after they have stopped being silenced. Now Nepal is resurfacing as an inclusive democracy. Broadening the participation and representation of Dalits is essential in compensating for past injustices, especially for designing a new constitution. It is vital in establishing and consolidating Nepal as a democracy that safeguards the rights and opportunities of all its citizens.

When the polity fails to connect with the community, disregarding its relative size and neglecting their perspectives and opinions, it undermines political equality and accountability of a democratic system. The classic liberal mode of representation is inadequate in overcoming historically embedded disadvantages. A narrow focus on physical or numerical representation, however, cannot be a solution either. Descriptive representation is and should be concerned with the similarities of political agents with those they represent, whether groups are and should be represented by their own members. It addresses the composition of political institutions as well as what representatives do for the variety of groups they are assumed and supposed to represent. Descriptive representation therefore needs to be conceptualised as taking place when political actors stand for, speak and act on behalf of similar others.

Bringing Dalits in the political process contributes in including previously disregarded perspectives, voices and interests. When Dalit representatives do stand for, speak and act on behalf of Dalits it creates a virtuous cycle of trust, involvement and policy responsiveness of and towards their constituencies where in the past there was little or none. This enhances democratic accountability as well as institutional legitimacy. Dalit representatives should have a mandate to represent their community, to act in consort for its benefit. Only through 1) representation in adequate numbers; 2) a strong link with intra-group inclusion; and 3) the establishment of a political and institutional space, will group representation result in meaningful representation of Dalits in Nepal.

The first prerequisite is an adequate number of Dalit representatives in the body politic. What makes for such a number is yet to be determined. The minimum number should be as per population ratio, the proportional representation. The Constituent Assembly Committee on State Restructuring and the State Restructuring Commission in Nepal, for example, proposed an additional percentage above proportional representation for Dalits as a compensation for extreme historical marginalisation. Such an additional quota, a form of constructive over representation, has yet to be discussed within the top leadership of political parties.

The second prerequisite for meaningful representation of Dalits is addressing the internal dynamics of the Dalit community. While being a common target of discrimination on the ground of caste, what constitutes as 'Dalit' is not a homogenous group. There are differences in deprivation and discrimination across region, sex, caste and class that need to be addressed. Representation has still not been fair to all Dalit subgroups despite the instatement of a mixed electoral system and inclusive provisions in electoral law. The link with inclusion can only be ensured through the inclusion of dispossessed subgroups. For this purpose the state and national leaders, including Dalit, should agree on some criteria to ensure the fair distribution of posts and positions in political offices for Dalits, as representatives rather than an emerging elite.

The third prerequisite is the creation of sufficient political and institutional space. Dalit representatives need the freedom to deliberate and act on behalf of their community. This is a challenging task especially when longstanding exclusionary norms in political institutions need to be replaced by inclusive ones. A plead for separate institutions for Dalits in all respects will prove counterproductive in the long run while some special provisions are required to ensure the equitable participation of Dalits and its representatives, to meaningfully recognize their struggle and contribution.

The path towards Dalit representation in Nepal in the political process started with the dawn of democracy in the early 1950s. But it came so slow and with so many setbacks that the number of Dalit representatives in political institutions did not cross even a dozen before 1990. The restoration of democracy in 1990 after the People's Movement (*Jana Andolan*) saw the growth of Dalit interest organisations but did not result in adequate representation of Dalits in political institutions. Nepali Congress (NC), the party that led the democratic movement in 1951 and which extended its organisational structure to include Dalits, failed to promote a space for Dalits in the democracy. Communist Party of Nepal- Unified Marxist Leninist (CPN-UML), a party in favour of a 'people's democracy', did not broaden its social base promoting such space for Dalits. The political and institutional foundation of representation are still limited for Dalits and are required to be broadened.

It was only after the success of the Second People's Movement (*Jana Andolan II*) in 2006 along with the signing of the Comprehensive Peace Accord between the Maoists and the Government of Nepal after a decade long insurgency that a Dalit was included in drafting the Interim Constitution. The Interim Constitution of 2007 provisioned for a mixed electoral system for the Constituent Assembly (CA), a body assigned with both national legislation and writing a new constitution. The election of the CA was the first election in Nepal that incorporated both First-Past-The-Post (FPTP) and Proportional Representation (PR). Dalit representation grew unprecedentedly though significant discrepancies existed between the allocation of seats under FPTP and PR. Except for Communist Party of Nepal-Maoist (CPN-Maoist), major parties - NC and CPN-UML, repeated an old habit of keeping Dalit candidacy mostly outside FPTP. And while Dalit representation in the cabinet also grew between 2006 and 2012, the old tendency to disregard persisted as Dalits were hardly taken into the ministries in the first round of cabinet formation. With the dissolution of the CA on 28 May 2012 and a caretaker cabinet without Dalit representatives, Dalits are left excluded in a critical junction of Nepal's history.

Until the *Jana Andolan II* only Hill Dalit men got few chances available to represent in Nepal's political institutions. This denied Dalit women, Terai Dalits and many castes within the Dalit community. Exclusion of dispossessed subgroups has continued even after the *Jana Andolan II*. Taking into account the size of population, for example, Khatwe and Musahar should have received 3 and 5 seats in the CA respectively. But neither community received a single seat and remained mostly absent in political institutions. The mixed electoral system gave different results for members of various Dalit subgroups. It was not only because of the distinctions inherent in the mixed electoral system but also due to discrepancies in inclusive policies and party candidacy. Dalit delegates from different parties and backgrounds have asserted that the real solution is 'quota within quota' or 'reservations within reservation'.

With the abolishment of political parties by the King in 1961, political parties were forced to continue their activities underground. 30 years of Panchayat autocracy did not benefit the internal

democracy and transparency of political parties even though the same parties fought for the restoration of democracy. During the second democratic period (1990-2006) parties failed to implement inclusive provisions in party constitutions, party regulations or even in ad-hoc party decisions. Selection procedures in the parties have continued to lack transparency and democratic norms. Indeed, without firm checks in party constitutions and in election rules, even organisations formally committed to democracy will be dominated by ruling elites. Dalit CA members have set a Dalit agenda and pressed for this in the constitution making process. They have also hailed the 2011 Caste Based Discrimination and Untouchability Act as a milestone.

Elected institutions in Nepal are still signified by high party discipline. CA members, who worked as legislators too, have repeatedly been pushed into voting according to party positions by special whips. There is lack of institutional space for Dalit representatives, which is more apparent for Dalit women. The tension lies between finding qualified candidates with an orientation towards Dalit concerns and interests while ensuring the link with exclusion by finding only the most marginalised Dalits. Many 'less educated' Dalit representatives in the CA, for example, stood as alarming.

Representation of Dalits in adequate numbers needs to be ensured and safeguarded. It has to be provisioned in the new constitution, formulated in laws and effectively implemented. The Interim Constitution stipulates the proportional inclusion of Dalits in all organs of the state. But Dalit inclusion, neither in the CA nor in the cabinet, has been based on proportionality. Furthermore, inclusion of dispossessed subgroups within the Dalit community needs to be addressed. This needs to be ensured through reservations within reservation based on population ratio for populous castes like Musahar, and preferential treatment for less populous castes like Badi. This has to be guaranteed across political institutions, in both legislative and executive bodies. In Nepal, the executive has been extremely strong compared to legislature. Failing to appoint Dalits in adequate numbers in the cabinets will in the end signify failure to establish inclusive democracy in the country.

Reservations in state governance, while of extreme symbolic and substantive importance, is just the tip of the iceberg. To build leadership

capacity from the grassroots, it is necessary to ensure adequate representation of Dalits at all levels of decision making. Besides, reservations in decision making bodies will only result in political empowerment when combined with reservations in education.

Under FPTP, the principle of proportional inclusion plus inclusion of dispossessed subgroups needs to be ensured. Currently only the principle of inclusion is mentioned for Dalits, lacking any specifications in electoral law. Consequently, few Dalit candidates have been put forward by political parties under FPTP. Instead, parties have been obligated to ensure proportional inclusion only while preparing the closed party list under PR. This has resulted in discrepancies in Dalit representation in the mixed electoral system leading to under representation of Dalits in the CA. Out of 22 Dalits with a ticket from major parties - CPN-Maoist, NC, CPN-UML, 7 were elected, revealing fact that major political forces can get Dalits elected even under FPTP. Proportional inclusion can be ensured either through constituency reservation or guaranteeing Dalit candidacy as per population ratio. Additional schedules have to be in place for dispossessed subgroups within the Dalit community under FPTP.

Under PR, the proportional inclusion of Dalits as well as Dalit women was required by electoral law. Additional schedules for other dispossessed subgroups can safeguard the political presence of those groups. It has to be noted that the mixed electoral system adopted for the CA election was not necessarily worse than the adoption of a fully proportional electoral system based solely on PR. Parallel voting under a mixed electoral system allows voters to cast two votes. Dual voting is more fluid and provides options to the voter to vote for both Dalits or Dalit issues as well as non-Dalits and non-Dalit issues in the same election. This helps to prevent caste from becoming the only consideration in voting behaviour. This can ultimately benefit in integrating Dalits rather than essentialising political identity of Dalits and non-Dalits in casting their votes in future elections.

Major parties have so far failed to find an appropriate balance in maintaining party discipline and giving a voice to historically disadvantaged groups. Exclusionary institutional norms and rules have to be replaced by inclusive ones to provide space for Dalit

representatives to combine party interest with community interest. While representatives elected under FPTP in Nepal, who have received a mandate directly from their constituency, can continue their office, this is not the case for representatives elected under PR. They are put forward as candidates by the party in a closed list and can subsequently be removed from office as recommended by the party. This way, the incorporation of a mixed electoral system, while facilitating the presence of Dalits in elected bodies, also puts extra hold on Dalit representatives (mostly elected through PR) by their party.

Under PR the closed party list with quotas for scheduled groups can be altered to a semi-open list. Voting systems using a closed list employ a listing of candidates selected by the party. Candidates elected from the list are essentially dependent on their party. In a system with a more open list, voters can not only vote for a party but also for individual candidates on the list as is the case, for example, in the proportional electoral system of the Netherlands. Incorporating the concept of priority voting for Dalits in the party list allow those Dalits to be elected when they meet a specified percentage of the electoral quota, even when their party ranking would indicate otherwise. This way, when a candidate from a scheduled group or subgroup meets a certain percentage of the electoral quota, that person will be elected before another candidate from the same scheduled group or subgroup even when the latter ranks higher in the list. This voting method enhances democratic accountability giving a mandate for representing community and reducing control of the party over candidates. This electoral arrangement will also enhance institutional space for Dalit representatives and to more effectively address the issues of the geographically dispersed Dalit community. Besides such arrangements, a discipline committee in political parties for filing incidences of caste based discrimination can be a great step forward in creating institutional space.

In a modern democracy, political parties build a crucial bridge between the public and politics through their representative function. Since the reinstatement of political parties in 1990 and increasingly after the end of the monarchy, the political parties have dominated the political arena of Nepal. Major political forces must therefore

strengthen internal democracy and ensure adequate representation of historically disadvantaged groups in all executive bodies, particularly in the central party committees. This cannot be based on ad-hoc decisions only and it has to be provisioned in the respective party constitutions. Currently the Election Commission stipulates that parties must be democratic and that parties are expected to hold internal election for its office bearers every five years. But this provision has been in place mostly as a technicality. Internal democracy of political parties should be upheld and decision making has to be transparent. A few top leaders should not be able to manipulate party elections and members should not be allowed to hold top positions for more than two terms. The Election Commission should therefore specify that every party needs to make conscious effort to ensure party conventions are open and inclusive. This will help party members and Dalit representatives to set their agenda and voice their concerns in party decision making. In this regard, major political parties, especially NC and CPN-UML, have amended their party constitutions and reserved seats for Dalits under a 'quota system' in the central committees, although as of yet not based on proportionality. The creation of political space for Dalits requires an expansion of the membership base in political parties to ensure access to both membership and leadership.

The restoration of formal democracy in 1990 did provide a foundation for Dalit assertions. It was during the second democratic period that the National Dalit Commission (NDC) was founded to protect and promote the rights of Dalits as well as promote political representation. This gave Dalits a voice in the political process. However, this has been a mostly consultative one. NDC should be made a statutory body. Such authority will delegate some legislative powers, vital to ensure a common goal and direction for Dalits. This will help to avoid that many issues and demands become partisan 'populist' issues of political parties in Parliament.

There is strain between finding qualified Dalit leaders and including the most excluded members of that community. The formation of a Formal Search Committee in political parties specifically assigned to find qualified members with preferential treatment for Dalits and dispossessed subgroups can be a solution to this problem. According to

Kymlicka (1993: 62) a “formal search committee within each party can help identify potential candidates from disadvantaged groups”. Such a search committee has to be independent in performing its functions and needs to have the power to give recommendations by presenting a list of candidates for party bodies and elections. Ideally, it should be entrusted veto power over party appointments and nominations for ensuring both qualification and inclusive representation.

The establishment of Dalit sister wings by political parties in the 1990s can be taken as a step towards political empowerment of Dalits. Without a mechanism to represent Dalits in the central committees of parties, the sister wings function as consultative bodies only. Furthermore, the leaders of Dalit sister wings are not considered as national leaders they are rather labelled as leaders of their community. As the parties become proportionally inclusive towards historically disadvantaged groups, the importance of such sister wings no longer remains in its present form. The role of Dalit sister organisation therefore need to be reviewed. Dalit sister wings hence should be placed in a position of providing a list of potential candidates to the Search Committee. In addition, they should be engaged in political empowerment of Dalits at different levels and creating critical mass. This way, Dalit sister wings can truly function as an intermediary between the party and society.

As Nepal is in a process of state restructuring, the manner in which it is restructured will have an impact on the process of political representation of Dalits. As Dalit are geographically dispersed across the country and aim to integrate into society, a separate Dalit state (*Pradesh*), either territorial or non-territorial, may not be appropriate. Dalits can instead be empowered through an elected National [Federal] Dalit Council. This council being a representative body of Dalits in federal Nepal can be equipped with resources and veto powers when dealing with issues of Dalits with vital importance. It can be entrusted authority, for example, to look after the issues of caste based discrimination and untouchability, educational policy, land reforms as well as other concerns of the community. The National Dalit Council can be vital in preventing that the issues of ethno-regionalism do not tyrannise the Dalit community further in the process of federalising the country.

Histories of deprivation and memories of discrimination not only differ between Dalits and non-Dalits, they will also change across generations. Second and third generation Dalit leaders may have less shared experiences of marginalisation and/or common interest with the Dalit community. Furthermore, the state of human development of excluded groups and subgroups will change. In a transitional political context, historically disadvantaged groups need stable measures to protect their rights and entitlements in the constitution. Constitutional provisions are necessary while they should be temporal in nature and a means for overall development and emancipation of Dalits. They should not be seen as or become natural rights of political elites. One way to balance the need for stability with temporality is to have periodic evaluations. This can be assigned to a special Expert Commission periodically, which can evaluate the impact of such compensatory measures, continued needs of the community and subgroups, and effectiveness of those measures and make recommendations when need for revision.

At what point the process of emancipation is completed and when injustices are left in history? If a person covered by a veil of ignorance (Rawls, 1971) and unknowing about his or her own caste in the present context of Nepal, would decide it would be better to be Brahman rather than Dalit, then injustice will prevail in that society. When he or she will no longer be concerned with whether he or she would be Dalit or Brahman based on his or her present position, the society will be just on the basis of caste groups. Additionally, if such a person would not care much about becoming either female or male Dalit, Hill or Terai Dalit, Musahar or Bishwakarma, internal diversity will not obstruct the road to equity. In Nepal, the discourse and practice of inclusion have begun. But inclusion without integration will result no emancipation. A culture of power sharing and consensus building in state governance, among parties and communities has yet to be introduced. This stands as one of the biggest challenges for political representation of the Dalit community.

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“As Dalits in Nepal are starting to get visibly represented across different political institutions, it becomes appropriate and necessary to look at, beyond and within the proportion of Dalit representation”. There is formal equality before the law, however, freedom from discrimination and equal opportunity is often not observed in Nepalese society. This book provides a historical and contemporary overview of Dalit representation in Nepal’s political and constitutional process. By addressing both dimensions of quantity and quality of political representation, the study fills an important gap in the existing literature. It analyses the state of proportional representation as well as the mutual relationship of Dalit leadership with the different groups that constitute Dalits. In addition, it analyses the political and institutional space given to Dalit representatives to effectively represent their community, particular in the parties. These are essential for meaningful representation and to overcome past injustices in the changing context of Nepal.

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