

IDSN briefing paper

Nepal: Dalit political participation and the 2013 election

Prepared by Frits Sollewijn Gelpke in association with IDSN – June 2013

Elections to Nepal's second Constituent Assembly (CA) are scheduled to take place before the end of 2013. These elections – and the subsequent process to finalise the drafting of a new constitution – will be of great significance to the country's Dalit population, as they may provide them with an opportunity for genuine political representation that has until now been lacking.

In the first CA (2008-2012), Dalits had an unprecedented number of seats. However, their eight per cent share was still considerably lower than their population ratio of 13 per cent (prior to the 2011 census, the official ratio is now 13.5 per cent). Also, Dalit CA members were deemed to be followers of their party leaders rather than representatives of their community; their own leaders were considered ineffective; some Dalit groups continued to be excluded from the political process; and female Dalit CA members complained about discrimination.



Dalits in Nepal demonstrating for their rights. Photo: NNDSWO

If the second CA is to fulfil its task of drafting a new constitution that ensures the rights and political participation of Dalits, it needs to offer them more than just seats. Dalits need a democratic space without exclusionary norms, rules and procedures. The constitution drafting process in Nepal needs to get back on an inclusive track so that Dalits are not again side-lined. Dalit women representation should be ensured and specified also under the quota for women candidates.

Broadening Dalit representation

The Dalits of Nepal suffer from caste discrimination and 'untouchability' practices on a daily basis. The hierarchy between 'upper' and 'lower' castes has a serious effect on Dalit human development. It has prevented them from participating in social, economic and political life. Broadening the political participation and representation of Dalits is essential in order to integrate them into the structures of the state and the fabric of society. Establishing and consolidating Nepal as an inclusive democracy can only be ensured by providing sufficient political and institutional space for Dalits.

While all Dalits are affected by caste discrimination, there are differences inside the community. Dalits of the plains (Terai Dalits) are more deprived than Hill Dalits. Dalit women face more severe discrimination than Dalit men as Dalits are part of a patriarchal society, sometimes even more so than non-Dalit communities. Dalit women are effectively victimised threefold; for being Dalit, for being women and for being Dalit women. Moreover, discrimination and 'untouchability' are also practiced within the Dalit community.

Until 2006, only Hill Dalit men got the few chances available to become members of Parliament and the Cabinet. Dalit women, Terai Dalits and many Dalit sub-castes remained excluded. After 2006, Dalits were given better opportunities, and these were extended to more groups inside the community. Half of Dalit CA members were women and many more communities have found representation. Nevertheless, exclusion within the Dalit community has continued. Taking into account the relative size of population and the size of the erstwhile CA, the Khatwe and Musahar communities (both Terai Dalits) should have received three and five CA seats respectively. But neither community received any seats and remained mostly absent in political institutions. Female Dalit CA members, despite their numerical strength, have complained that there still is a biased mindset against women, obstructing their ability to set the agenda for the concerns of Dalit women.

Proportional representation of Dalits (based on their population ratio), i.e. 13.5 per cent is necessary for creating a critical mass and voicing concerns. But numbers in themselves are not sufficient. There will be less inclusion if Dalit representatives are obliged to follow party lines. In Nepal elected institutions are affected by high party discipline; moreover, caste-based exclusionary mechanisms have ensured that Dalits have not been proportionally included in the top echelons of major parties. This has hardly provided Dalits with the political and institutional space to set the agenda and represent their community. The responsibility for this lies with the political parties. In an inclusive democracy, elected representatives from the Dalit community need the freedom and ability to deliberate between party and community, especially when the body is assigned to write a new constitution.

Ensuring Dalit participation in the next election

The election to the erstwhile CA was the first in Nepal to incorporate single member districts under First-Past-the-Post (FPTP) and a party list under Proportional Representation (PR). It allocated 42 per cent of the seats through FPTP and 58 per cent through PR. Under FPTP, only the candidate with the most votes wins a seat in the constituency, so a lot of votes will be 'lost' this way. This has given major parties in Nepal an edge during elections. Candidates from the geographically dispersed Dalit community had little option to contest in an electoral arena already dominated by the major parties. And major parties gave no chance to Dalit leaders in putting forward their candidates for elections. PR is considered to give a chance to smaller parties and smaller communities as seats are provided on the basis on proportion of votes. Nevertheless, Dalit inclusion still depends on the parties and the existence and implementation of inclusive provisions in electoral law. In fact, the party list can reinforce dependency on party and party leadership while those that do get elected under FPTP have a stronger position as representatives of constituency and community.

Under FPTP, parties needed to abide by the 'principle of inclusion' while putting forward candidates to the 2008 CA election. But established parties continued their old habits and nominated few candidates from the Dalit community. As a consequence, Dalits were underrepresented in the CA. Notwithstanding, of the 22 Dalits nominated by the major parties seven were elected while 13 ranked in the top three in their respective constituencies.

This shows that major political forces can get Dalits elected even under FPTP. Therefore a principle of 'proportional inclusion' needs to be introduced and parties have to put forward Dalit candidates as per their population ratio. Fair chances also have to be given to Dalit women. If Dalits fail to be elected as per population ratio, proportional representation of Dalits has to be ensured through allocation of extra seats. Dalit subgroups that have so far been ignored also need to be given

consideration. In addition, small but extremely excluded communities like the Badi need to be given special preference that goes beyond the principle of proportional representation.

Major parties have so far failed to find an appropriate balance in maintaining party discipline and giving a voice to historically disadvantaged groups. While CA members elected under FPTP can continue in office, this is not the case for those elected under PR. They are put forward as candidates by the party and can subsequently be removed from office as recommended by the party. Such exclusionary institutional rules have to be replaced by inclusive ones, to provide real space for Dalit representatives to set the agenda for Dalits and combine party interest with community issues.

New voting methods to reduce party control

Introducing voting methods that would reduce excessive control by a political party over its candidates would enhance democratic accountability and enable Dalits to become better representatives of their community. One such method would ensure that lower ranking candidates on party lists could be elected before other higher ranking candidates if they receive more votes.

The Election Commission (EC) has been updating its biometric voting list and together with the government is launching a citizenship and voter registration campaign. Many members of deprived and discriminated communities, particularly Dalits, still lack citizenship certificates and the ensuing right to vote. The mobile citizenship certificate distribution teams have to reach and provide citizenship to members of all excluded and remote communities. Such communities also need to be targeted in the voter registration campaign.

The EC stipulates that parties have to be 'democratic' and 'hold internal election for its office bearers every five years'. But this provision has been in place mostly as a technicality. A few top leaders have effectively controlled the parties for decades and at times manipulated party elections. This prevents Dalits and other historically disadvantaged groups to set the agenda inside the parties. Dalit nominations therefore have to be provisioned in party constitutions, and decision making should be transparent. The EC therefore has to strictly enforce its rules and obligations for registering and contesting for elections. Some parties have already amended their party constitutions and reserved seats for Dalits under a 'quota system', though as of yet not based on population ratio.

Dalit participation in the state structure

The Interim Constitution stipulates 'the proportional inclusion of Dalits in all organs of the state structure'. With the exception of the Interim Election Council formed in March 2013, all cabinets since 2006 have included a Dalit. But Dalit inclusion has not been based on population ratio. Moreover, most Dalit cabinet members were only nominated after continued protests from the Dalit community. The proportional inclusion of Dalits has to be guaranteed in both legislative and executive bodies. In Nepal, the Cabinet has been extremely strong compared to Parliament. Failing to appoint Dalits to the Cabinet at such a critical period may result in the failure to establish inclusive democracy in Nepal.

Nepal is in a process of transition from a centralised to a federal state that shares power between different regions and communities. Dalits are geographically dispersed across Nepal and aim to integrate into society. They need some mechanism to make sure their concerns are addressed even in states based on ethnic or regional identity. Dalits can be empowered through an elected National Dalit Council. This representative body of Dalits in a federal Nepal can be equipped with resources and veto powers when dealing with Dalit issues. It can be entrusted authority, for example, to look

after the issues of caste discrimination and untouchability, educational policy, land reforms and other Dalit concerns.

A glimpse of the future

At this time, most Dalit political actors are first generation leaders with a commitment to representing their community and eliminating caste discrimination and 'untouchability' from society. But experiences of exclusion and discrimination of Dalits will tend to change across generations. In a transitional political context, historically disadvantaged groups need stable measures to protect their rights and entitlements in the constitution. These should be temporary in nature and a means for the overall development and emancipation of Dalits.

A special commission should evaluate such measures regularly and revise them if needed. State and national leaders, including Dalits, should agree on fair distribution of political posts and offices for Dalits. This will prevent the formation of a Dalit political class and ensure that those that have suffered the hardships of being Dalit will continue to have the same chances to join political life.

Policy Recommendations

- The 'principle of inclusion' needs to be replaced with the 'principle of proportional inclusion' in election law. Parties have to put forward Dalit candidates as per their population ratio (13.5 per cent), but also ensure that Dalit candidates are elected proportionally. They should also ensure proportional representation of Dalit women within the 33 percent quota for women in the candidacy list of the forthcoming election. Similarly, there should be a 50 percent reservation for Dalit women within the Dalit quota.
- Electoral districts should be adjusted in favour of Dalits (a process known as gerrymandering) to encourage Dalit leaders to stand in FPTP elections. There should be a 50 percent quota for Dalit women within this scheme.
- If Dalits fail to be elected as per population ratio (13.5 per cent) under FPTP, proportional representation of Dalits has to be ensured through allocation of extra seats under PR.
- Under PR additional schedules (besides those for Dalits and Dalit women already in place) for dispossessed subgroups like Musahar and Khatwe have to be put based on population ratio: reservations within reservation. In addition, less populous but extremely excluded communities like Badi need to be given special preference by political parties when preparing their respective lists.
- Under PR the 'closed' party list with quotas for scheduled groups should have a fixed ranking and can be altered to a more open list, where voters can not only vote for a party but also for individual candidates on the list. Electoral provisions that allow parties to replace Parliamentarians and CA members elected through PR have to be removed. This will enhance democratic accountability and reduce excessive control by the party over candidates, enhancing Dalit leadership.
- The EC has to specify that 'every party needs to make a conscious effort to ensure that party conventions are open and inclusive'. It has to strictly enforce all its rules and obligations for registering for and contesting elections. It also has to ensure the right to vote to members of all marginalised and remote communities through fair citizenship distribution and voter registration.

- Dalit nominations and quotas for party leadership should be based on proportional inclusion. To ensure that party conventions are open and inclusive, internal election to party executive committees should not be done ad hoc; instead all parties should adopt separate party elections with a Dalit quota (and a separate quota for Dalit women) based on population ratio provisioned in party constitutions.
- The roles of Dalit sister wings should be transformed from representation in the party to political empowerment at different levels and finding qualified members from the community for political posts and office.
- The proportional inclusion of Dalits in all organs of the state structure has to be implemented not only in legislative but also in executive bodies, particularly the Cabinet.
- Dalits need an effective mechanism that safeguards their rights and participation in the state restructuring process from a unitary to a federal Nepal, for instance through an elected National Dalit Council.
- A special expert commission has to periodically evaluate the impact of compensatory measures for Dalits, their effectiveness and continued need based on the state of human development, also of subgroups, and make recommendations when there is a need for revision. Furthermore, some criteria have to be set to ensure fair distribution of political posts and offices for Dalits. This is to ensure that special rights will not be seen as natural rights and to prevent the formation of a Dalit political elite.

Links:

[Dalit Representation in National Politics of Nepal](#) (Published by NNDSWO)

[IDSN Nepal country page](#)