Gender, Caste and Ethnic Exclusion in Nepal

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UNEQUAL CITIZENS
SUMMARY
GENDER CASTE AND ETHNIC EXCLUSION IN NEPAL
A Kathmandu businessman gets his shoes shined by a Sarki. The Sarkis belong to the leatherworker sub caste of Nepal’s Dalit or “low caste” community. Although caste distinctions and the age-old practices of “untouchability” are less rigid in urban areas, the deeply entrenched caste hierarchy still limits the life chances of the 13 percent of Nepal’s population who belong to the Dalit caste group.
UNEQUAL CITIZENS
Gender, Caste and Ethnic Exclusion in Nepal

SUMMARY
The Gender and Social Exclusion Assessment Team
dedications this book
to our friend and colleague,

**DR. KISHOR PRASAD GAJUREL**
March 5, 1957 – April 14, 2006.

A great teacher, a true scholar and a Nepali citizen whose research has helped us take this step towards the shared goal of building an inclusive Nepal.
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Foreword

Social inclusion is one of the four pillars of the Nepal Poverty Reduction Strategy Paper (PRSP)/Tenth Plan. Exclusion remains an important hurdle that Nepal has to overcome in order to be able to attain the development objectives of both the PRSP and the Millennium Development Goals. All major development partners have now incorporated social inclusion as a core pillar in their assistance strategies, vindicating the long-term development vision of His Majesty’s Government and the National Planning Commission (NPC).

The Nepal Gender and Social Exclusion Assessment (GSEA) brings together the main findings of a multi-year study on social exclusion and how it has affected development outcomes in Nepal. It examines gender, caste and ethnicity as three intertwined institutions or “rules of the game” that determine individual and group access to assets, capabilities and voice based on socially defined identity. The GSEA study, entitled Unequal Citizens, attempts to understand how these institutions affect the people and suggests ways to overcome the obstacles. I am confident that the GSEA will be very useful in translating Nepal’s development vision into actions. Some of the answers lie in the interventions recommended by the report, which also provide a sound basis for development partners to continue supporting Nepal’s ongoing efforts towards building a fair, equitable and inclusive society.

The study is the outcome of a collaborative effort by the Department for International Development (DFID) of the Government of the United Kingdom and the World Bank in close collaboration with the National Planning Commission. The NPC assisted the process by appointing an Advisory Group of key government and civil society stakeholders to provide guidance to the study team. In addition, DFID, the World Bank and the Danish government supported a wide range of background studies and consultations whose findings have been incorporated in the report. The research was undertaken by a team of Nepali and international scholars and development workers and adequately reflects the reality on the ground.

Finally, I congratulate all the GSEA team members and all the men and women of Nepal who took part in the multi-level consultations for producing what is a very comprehensive assessment of Nepali society. The NPC will continuously advocate for greater social inclusion and will continuously monitor progress as part of the implementation of the Poverty Reduction Strategy Paper, the Tenth Plan.
The partnership between DFID and the World Bank that made the Gender and Social Exclusion Assessment possible was first discussed on a very momentous day in 2001. I was actually at the DFID office in Palace Street, London talking about possible collaboration on social development issues in Nepal when the news of the September 11 bombings first came out. In the elevator on the way down after the meeting, some DFID staff told me that an airplane had flown into the World Trade Centre. Despite this inauspicious beginning, the partnership between our two institutions on social exclusion issues in Nepal has been a fruitful one that has grown stronger over the years.

In a Memorandum of Understanding that was signed in 2002 with the Bank, DFID agreed to support two thirds of my time as a World Bank staff person to work on a jointly agreed social development work programme around the issue of social exclusion. The GSEA was to be the major product of this partnership. I came out to Nepal to take up the assignment in October of that year – just as discussions on the draft PRSP were taking place. Those discussions were critical and led to a third key partner in the GSEA collaboration, the National Planning Commission. NPC itself decided to bring exclusion issues to the forefront of its analysis and to make social inclusion one of the four pillars of the PRSP. Dr. Shankar Sharma, as Vice Chair of the NPC, invited a group of distinguished scholars and activists working on gender, caste and ethnic issues to form an informal Advisory Group for the GSEA study. This group consisted of Professor Santa Bahadur Gurung, Director of the National Foundation for the Development of Indigenous Nationalities (NFDIN); Dr. Om Gurung, President of the Nepal Federation of Indigenous Nationalities (NEFIN); Dr. Pushpa Shrestha, Member, NPC; Durga Sob, President of the Feminist Dalit Organization (FEDO) and former Member-Secretary of the National Dalit Commission; Hira Bishwakarma, Dalit Empowerment and Inclusion Project (DEIP); Dr. Durga Pokhrel, former Chairperson of the Nepal Women’s Commission and currently Minister for Women, Children and Social Welfare; Dr. Bina Pradhan and Dr. Meena Acharya.

From the beginning, the collaboration with DFID has been very substantive. Frances Winters was DFID’s Social Development Advisor during the first few months of the work. She was succeeded by Dr. Rebecca Calder, who guided the GSEA team through the necessary bureaucratic processes on the DFID side and more importantly, infused her DFID colleagues with an
understanding and excitement about the social exclusion agenda – thereby helping to embed it as a central element in the DFID Country Assistance Plan. Since Rebecca Calder’s transfer to Pakistan in the fall of 2005, Jasmine Rajbhandary, DFID’s present Social Development Advisor, has taken on the responsibility for leading the follow-on work on social exclusion at DFID. The whole GSEA team also owes a special thanks to Mark Mallalieu, Head of Office, DFID Nepal for his strong support to the social inclusion agenda.

With additional support from DFID and also the Danish Government (on the health and education chapters), we put together a team to carry out the assessment. Members of the GSEA team and their contributions were as follows: 1) Mukta Lama Tamang, Dr. Pratyoush Onta and Dr. Seira Tamang on Janajati issues; 2) Dharma Swarnakar and Manjushree Thapa on Dalit Issues; 3) Seira Tamang and Manjushree Thapa on gender issues; 4) Saphana Malla and Sabin Shrestha on legal issues; 5) Dr. Meena Acharya, Chaitanya Subba, Harirar Regmi, Shankar Aryal and Dr. Kishor Gajurel on the statistical profile; 6) Kiran Bhatia, Dr. Mark Turin and Chhaya Jha on education and health; 7) Dr. Stephen Biggs, Dr. Sumitra Gurung and Dr. Don Messerschmidt on group-based approaches, which was worked upon further by Dr. Saubhagya Shah; 8) Dharma Swarnakar and Dr. Mallika Shakya for the budget analysis and 9) Dr. Aruna Rao and Dr. David Kelleher on affirmative action. I served as team leader and contributed the conceptual framework and the chapter on social-cultural and historical foundations of exclusion as well as chapters on macro and micro level poverty outcomes. Dr. Isabella Bassignana Khadka, Binod Bhattarai, Judith Amtzis, Zamila Bunglawala and Bela Malik served as editors, assisted by the core writing team of Lynn Bennett, Pratyoush Onta, Seira Tamang and Manjushree Thapa. Team support was provided by Krishna Thapa, Wangmu Sherpa, Sanjiv Shrestha and Tara Shrestha from the World Bank. Thanks also go to FEDO and to the UNICEF office in Kathmandu for sharing many of the photographs reproduced in this volume and to Dr. Harka Gurung for permission to reproduce three of his most recent ethnic and caste maps.

It was particularly fortunate that just before I came out to begin work in Nepal, I was granted funds by the Poverty Window of the Trust Fund for Environmentally and Socially Sustainable Development (TFESSD) to develop an instrument and carry out research to track changes in empowerment and social inclusion levels in the context of the Bank-assisted Rural Water Supply
and Sanitation (RWSS II) project. This research, entitled Measuring Empowerment and Social Inclusion (MESI), combined qualitative in-depth case studies with data from a survey administered to one man and one woman in 1000 households from 60 villages. Additional funding was received from the GENFUND and a second instalment from TFESSD. This support has enabled the GSEA team to supplement the macro-level analysis we carried out on the Census, Nepal National Living Standard Survey (NLSS) and Demographic and Health Survey (DHS) data sets with analysis of primary data reflecting the ground realities of exclusion in rural Nepal. Dr. Kishor Gajurel led the statistical analysis and Dr. Sondra Hausner and Kim Armstrong oversaw the qualitative research.

An important part of the GSEA study was the consultation process organized by the team to share the conceptual framework, and later the findings and preliminary conclusions, with key stakeholder groups. In addition to presentations along the way to DFID and the World Bank colleagues, we also informally shared our framework and findings with a range of other donors including ADB, CARE, GTZ, USAID, SDC and the Gender Donor Coordination Group. Most helpful to us, however, were the series of six consultation workshops, facilitated by Bikram Subba and Chhaya Jha, that were held with Dalit, Janajati and women’s organizations and with key government policy makers during the winter and spring of 2005.

An important part of the GSEA has been its close connection with the country assistance strategies and the on-going sectoral and policy reform work of both DFID and the World Bank. Without the strong support from Ken-ichi Ohashi, World Bank Country Director for Nepal, and the whole Nepal Country Team, the critical link between social inclusion and Nepal’s long term reform agenda could never have been so forcefully articulated.

UNEQUAL CITIZENS: Gender, Caste and Ethnic Exclusion in Nepal is now available. In addition to this summary, a 30 page executive summary has been published, and a shortened version of the full report is also being prepared. A Nepali version is also in the works. The entire GSEA report (which in its draft version is over 700 pages) will be placed on the Internet and key chapters will be published separately for those with a special interest on specific issues. But what we hope will be the most important aspect of the GSEA is not its publication as much as the on-going process of introspection and
debate on social exclusion in Nepal, which the GSEA has tried to capture and advance. Like all social transformation, this will be a long and contentious process that cannot be “projectised” and by its very nature, can only be directed and carried through by Nepali citizens. DFID and the World Bank are committed to continuing their support to this process at this critical juncture in Nepal’s history. Over the next several years, continued support for the social inclusion agenda will be provided in part by the Bank and by DFID/Nepal’s Social Exclusion Action Programme (SEAP), currently in the planning stage. We look forward to the continued leadership of the NPC as Nepal works through its historical legacy of exclusion and forges a polity in which the playing field is truly level for all its diverse citizens.

Kathmandu, Nepal
January 2006

Dr. Lynn Bennett
Lead Social Scientist
The World Bank, Nepal
## Acronyms and abbreviations

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>BA</td>
<td>Bachelor of Arts</td>
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<tr>
<td>B/C</td>
<td>Brahman/Chhetri</td>
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<tr>
<td>BCN</td>
<td>Brahman, Chhetri, Newar</td>
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<tr>
<td>CBS</td>
<td>Central Bureau of Statistics</td>
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<tr>
<td>CDO</td>
<td>Chief District Officer</td>
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<tr>
<td>CEDAW</td>
<td>Convention on Eliminating all forms of Discrimination Against Women</td>
</tr>
<tr>
<td>CEI</td>
<td>Composite Empowerment and Inclusion Index</td>
</tr>
<tr>
<td>CPN (M)</td>
<td>Communist Party of Nepal (Maoist)</td>
</tr>
<tr>
<td>CPN-UML</td>
<td>Communist Party of Nepal (Unified Marxist Leninist)</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
<tr>
<td>CWC</td>
<td>Central Working Committee</td>
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<tr>
<td>DDC</td>
<td>District Development Committee</td>
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<tr>
<td>DEIP</td>
<td>Dalit Empowerment and Improvement Plan</td>
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<tr>
<td>DFID</td>
<td>Department for International Development</td>
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<td>DHS</td>
<td>Demographic and Health Survey</td>
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<td>DNF</td>
<td>Dalit NGO Federation</td>
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<tr>
<td>DWO</td>
<td>Dalit Welfare Organization</td>
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<tr>
<td>EHCS</td>
<td>Essential Health Care Services</td>
</tr>
<tr>
<td>EMI</td>
<td>Empowerment Index</td>
</tr>
<tr>
<td>EOC</td>
<td>Emergency Obstetric Care</td>
</tr>
<tr>
<td>FECOFUN</td>
<td>Federation of Community Forest Users Nepal</td>
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<tr>
<td>FEDO</td>
<td>Feminist Dalit Organization</td>
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<td>FRC</td>
<td>Fisheries Research Centre</td>
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<tr>
<td>GSEA</td>
<td>Gender and Social Exclusion Assessment</td>
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<tr>
<td>HMG/N</td>
<td>His Majesty’s Government/Nepal</td>
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<td>HOR</td>
<td>House of Representatives</td>
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<tr>
<td>HSS</td>
<td>Health Sector Strategy</td>
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<tr>
<td>ILO</td>
<td>International Labour Organization</td>
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<tr>
<td>IMR</td>
<td>Infant Mortality Rate</td>
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<tr>
<td>INGO</td>
<td>International Non Government Organization</td>
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<tr>
<td>IPM</td>
<td>Integrated Pest Management</td>
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<td>JMC</td>
<td>Jagaran Media Centre</td>
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<td>JUP</td>
<td>Jana Uttham Pratisthan</td>
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<tr>
<td>LHMC</td>
<td>Local Health Management Committees</td>
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<td>LSGA</td>
<td>Local Self-Governance Act</td>
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<tr>
<td>MCH</td>
<td>Maternal and Child Health</td>
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<tr>
<td>MDG</td>
<td>Millennium Development Goal</td>
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<tr>
<td>MESI</td>
<td>Measuring Empowerment and Social Inclusion</td>
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<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>MLD</td>
<td>Ministry of Local Development</td>
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<td>MOES</td>
<td>Ministry of Education and Sports</td>
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<td>MOF</td>
<td>Ministry of Finance</td>
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<tr>
<td>MOGA</td>
<td>Ministry of General Administration</td>
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<td>MOH</td>
<td>Ministry of Health</td>
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<tr>
<td>MOU</td>
<td>Memorandum of Understanding</td>
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<tr>
<td>MR</td>
<td>Mortality Rate</td>
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<tr>
<td>MWCSW</td>
<td>Ministry of Women, Children and Social Welfare</td>
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<tr>
<td>NC</td>
<td>Nepali Congress</td>
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<tr>
<td>NCDN</td>
<td>National Committee for the Development of Nationalities</td>
</tr>
<tr>
<td>NDC</td>
<td>National Dalit Commission</td>
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<tr>
<td>NDHS</td>
<td>Nepal Demographic Heath Survey</td>
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<tr>
<td>NEFA</td>
<td>Nepal Education for All</td>
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<tr>
<td>NEFIN</td>
<td>Nepal Federation of Indigenous Nationalities</td>
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<tr>
<td>NEFSCUN</td>
<td>National Federation of Savings and Credit Cooperative Unions, Ltd.</td>
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<td>NFDIN</td>
<td>National Foundation for Development of Indigenous Nationalities</td>
</tr>
<tr>
<td>NGO</td>
<td>Non Government Organization</td>
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<tr>
<td>NHDR</td>
<td>Nepal Human Development Report</td>
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<td>NHSP</td>
<td>Nepal Health Sector Programme</td>
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<tr>
<td>NLSS</td>
<td>Nepal Living Standard Survey</td>
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<td>NNDSWO</td>
<td>Nepal National Depressed Social Welfare Organization</td>
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<tr>
<td>NPC</td>
<td>National Planning Commission</td>
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<tr>
<td>NWC</td>
<td>National Women's Commission</td>
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<tr>
<td>PCRW</td>
<td>Production Credit for Rural Women</td>
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<tr>
<td>PMAS</td>
<td>Poverty Monitoring Analysis System</td>
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<tr>
<td>PR</td>
<td>Proportional Representation</td>
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<td>PRSP</td>
<td>Poverty Reduction Strategy Paper</td>
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<td>RPP</td>
<td>Rastriya Prajatantra Party</td>
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<td>RWSS</td>
<td>Rural Water Supply and Sanitation</td>
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<td>SEAP</td>
<td>Social Exclusion Action Programme</td>
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<td>SII</td>
<td>Social Inclusion Index</td>
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<tr>
<td>SLC</td>
<td>School Leaving Certificate</td>
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<td>SMC</td>
<td>School Management Committee</td>
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<td>SPOSH</td>
<td>Society for Preservation of Shelters and Habitations in Nepal</td>
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<td>SWAp</td>
<td>Sector-Wide Approach</td>
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<td>SWC</td>
<td>Social Welfare Council</td>
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<tr>
<td>TFESSD</td>
<td>Trust Fund for Environmentally and Socially Sustainable Development</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<tr>
<td>UNICEF</td>
<td>United Nations Childrens' Fund</td>
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<tr>
<td>VCDP</td>
<td>Vulnerable Community Development Plan</td>
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<td>VDC</td>
<td>Village Development Committee</td>
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<td>WB</td>
<td>World Bank</td>
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<td>WDO</td>
<td>Women Development Officer</td>
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<td>WDS</td>
<td>Women Development Section</td>
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EXECUTIVE SUMMARY
EXECUTIVE SUMMARY

Background and framework

The Gender and Social Exclusion Assessment (GSEA) examines old hierarchies that continue to structure access to political influence and economic opportunities. Democracy was established in Nepal in 1990. Even in the democratic polity, however, women, the formerly “untouchable” castes who now call themselves Dalits, the ethnic groups or Janajatis, the Muslims and the plains dwellers or Madhesis remain on the margins.

The GSEA has examined gender, caste and ethnicity as three interlocking institutions that determine individual and group access to assets, capabilities and voice based on socially-defined identity.

Inclusion is one of the four pillars of Nepal’s Poverty Reduction Strategy Paper (2003). However, attaining its inclusion goal will require fundamental shifts not only in the structure of governance and access to economic opportunity but also in the underlying hierarchical norms, values and behaviours that govern social interaction.

In Nepal political and economic power was consolidated by interlinking it with the Hindu caste system. The priestly Brahmans were at the top of the ritual order, with the Kshatriya (kings and warriors) just beneath them and in command of the political order; next came the Vaishya (merchants) and the Sudra (peasants and labourers). Beneath everyone were occupational groups, considered “impure”, and “untouchable” or acchut. In the Hills, in-migrating Hindus of Caucasoid stock made up the priests and warriors and the lowest “untouchable” groups. The middle rank was accorded to
indigenous groups, the Janajatis, generally of Mongoloid racial stock. Officially abolished in 1963, caste-based discrimination, while diluted, remains even today.

During the Panchayat period (1962-1990) – although directly ruled by a king – Nepalis for the first time began to think of themselves as citizens rather than subjects. The transformation from subjects to citizens remains incomplete.

Nepal’s new Constitution (1990) established a more inclusive state. It describes Nepal as “multi-ethnic, multi-lingual and democratic” and declares that all citizens are “equal irrespective of religion, race, gender, caste, tribe or ideology.” However, it also retained some ambiguities – by declaring Nepal a Hindu Kingdom, denying women the right to pass their citizenship to their children and explicitly protecting “traditional practices.”

On February 1, 2005 the King suspended democracy and began direct rule. The parliamentary parties have continued to protest against the new order and demand the restoration of democracy. The suspension of democratic rule could delay the advancement of the rights of all Nepalis, especially the most excluded populations, mainly women, Dalits and Janajatis.

**The GSEA framework**

The GSEA analyses relationships between people and the institutions or “rules of the game” that shape the opportunity structure of their social, political and economic world. Empowerment and social inclusion are means to shift these relationships and the institutions that embody them towards greater equity. There are three domains of change where the state, civil society and donor organizations can intervene to ensure the following for the poor and excluded:

- access to livelihood assets and services;
- the ability to exercise voice, influence and agency; and
- a more equitable opportunity structure with “rules of the game” that allow all citizens to participate on the same terms in the life of the state and larger society as well as in their access to livelihood opportunities and political influence.

“Access to assets and services” and “voice, influence and agency” are part of the **empowerment** process. The other domain of change, the “rules of the game”, is where **social inclusion** does, or does not, take place. Empowerment and social inclusion play complementary roles in promoting equity of agency and sustainable prosperity for all.
Poverty outcomes

The GSEA examines poverty outcomes using indicators of economic well-being, human development levels, and voice and political influence.

Nepal began generating data on caste and ethnicity only in 1991. The 2001 census listed 103 social groups. Numerically no single group is predominant and the population can be broadly divided into Hindu caste groups, Janajatis and the religious minorities (mostly Muslim). In 2001, caste groups constituted 57.5 percent of the population, Janajatis 37.2 percent and the religious minorities 4.3 percent.

The Nepal Living Standards Survey, 2003/04 estimated that 31 percent of Nepalis were living below the poverty line. The Brahman/Chhetri group and the Newars have the fewest households in poverty and the Tarai Middle Castes also have low proportions under the poverty line. In contrast, almost half of all Dalits live in poverty, and poverty incidence among Hill Janajatis and Muslims is significantly higher than the national average. However, this data must be approached with some caution because Janajati poverty aggregates mask intra group differentials. The analysis also reveals that certain groups pay a “penalty” in terms of lower household per capita consumption because of their caste, ethnic or religious identity.

A gender dimension of poverty affects health and education outcomes and leads to greater economic insecurity for women. Political poverty is manifested in the main political parties’ failure to increase participation of women, Dalits and Janajatis in governance institutions. Dalits were almost totally absent from parliament during the entire multiparty period.

The GSEA carried out a separate study to measure and analyse the relative empowerment and social inclusion levels of a sample of one man and one woman from 1000 households in 60 villages. Members of the Brahman/Chhetri/Newar (BCN) groups scored the highest on both empowerment and social inclusion and the Dalits were at the bottom. Janajatis were intermediate between the two groups – closer to the BCN group in some measures of livelihood empowerment but closer to Dalits with respect to other measures. In all groups men scored higher than women, but BCN and Middle Caste and Janajati women all scored higher than Dalit men. Statistical analysis revealed the following:

- Caste and gender together account for a third of the variation in empowerment and inclusion levels.
- Caste is a more powerful predictor of empowerment/inclusion than gender.
- Membership in local groups was associated with higher empowerment and inclusion.

Certain groups pay a “penalty” in terms of lower household per capita consumption because of their caste, ethnic or religious identity.
Legal exclusion

The lack of laws is not the main issue in Nepal. The Constitution and the Civil Rights Act of 1955 prohibit discrimination on the grounds of “religion, race, sex, caste, tribe, ideological conviction or any of these”. The laws also prohibit untouchability, denial of access to any public place or depriving citizens of the use of public utilities. Enforcement is lax, however. Discriminatory provisions also exist, such as the declaration of Nepal as a Hindu kingdom and of Nepali as the only official language – and the protection of “traditional practices”, which has been used to bar Dalits from temples and to permit continued caste discrimination.

The law denies women equal inheritance rights and the right to pass citizenship to their children. Existing laws are inadequate to deal with sexual offences and Nepal has no law to deal with sexual harassment.

Public discourse and actions

This section examines how the “rules of the game” have influenced Nepal’s excluded groups in terms of government policies and institutional structures. Until April 1990, Nepal’s movements for women, Dalit and Janajati rights remained subsumed within the larger struggle for democracy.

The women’s movement has succeeded in placing questions of gender equality and justice on the national agenda, and the Dalit movement has begun to challenge Nepal’s caste society. The Janajati movement, once described by many Brahmans and Chhetris as a “divisive” phenomenon, has now succeeded in bringing fundamental issues of fair ethnic representation to the fore. Exclusion and hierarchy within excluded groups is also being questioned.

The three major social movements remain independent of each other, despite their many common demands. Because little dialogue has taken place between them, the demands of some groups contradict those of others. This has given the state space to delay fulfilment, and in turn has resulted in the growth of radical or revolutionary offshoots.

Government policy and institutional framework

Nepal’s Eighth Plan (1992-1997), the first formulated by a democratic government, introduced poverty alleviation as one of its three objectives. It was also the first public document to address the caste/ethnic issue, albeit indirectly and incompletely.

The Ninth Plan (1997-2002) addressed Dalits and Janajatis by name – for the first time – and had a separate chapter subsection dealing with Adivasi
Janajatis in development. The government began allotting some public funds to programmes for Janajatis.

Planned efforts to improve the situation of women began in the Sixth Plan (1981-1985) but the approach was welfare driven. The Eighth Plan raised the issue of women's representation in decision-making and acknowledged the existence of gender-based discrimination – but failed to define either term.

The Tenth Plan (2002-2007), the PRSP, recognises that lack of voice, political representation and empowerment are as important dimensions of poverty as are the economic and human development dimensions, and proposes “affirmative action” to level the playing field. However, it too fails to present a realistic strategy and concrete mechanisms to mainstream inclusion.

Responses to gender discrimination
Before 1990 women’s issues were cast in the framework of development and welfare – not rights.

Nepal's Constitution does not permit discrimination on the basis of sex and advocates special legal provisions to protect and advance the interests of women. The Local Self Governance Act (LSGA), 1999 introduced mandatory representation of women in local government. However, similar interventions are lacking at higher levels.

Nepal has ratified the Convention on Elimination of all forms of Discrimination Against Women (CEDAW). The CEDAW requires Nepal to change about 85 laws and 137 legal provisions that are discriminatory, a task which remains to be done.

The Ministry of Women, Children and Social Welfare (MWCSW) lacks adequate financial and human resources to carry out its numerous responsibilities effectively. It has also largely failed to consider the priorities and needs of women from traditionally excluded castes and ethnic groups.

Nepal set up the National Women's Commission (NWC) in 2002. However, it lacked a legal basis and its mandate remained unclear. Its members retired in March 2004 and replacements had not been appointed by February 2006. Brahman and Chhetri women – appointed mainly on the basis of their political affiliation – dominated the NWC membership.

Despite various efforts, the kind of structural change implied by the term “gender mainstreaming” has not occurred. Tension also exists between technocratic “fixes” and those advocating longer-term socio-political change. The latter is more likely to occur, as a process of democratic trial and error – often led by ordinary people – tends to be “messier” and less amenable to donor timetables and budget cycles.
Representation of women in political parties is low, especially at the higher echelons of power. Non-representation remains a major obstacle to the mainstreaming of policies and programmes that focus on women and other excluded groups.

Responses to caste discrimination
Dalits remain at the very bottom of Nepal’s caste hierarchy. Even now, the government and many development/aid organizations use euphemisms such as “occupational castes”, “backward classes”, “marginalised”, and “disadvantaged groups”, instead of referring to them as Dalits. The hesitation to use the term Dalit deflects attention from the everyday reality of caste-based discrimination in Nepal.

Over 200 forms of caste-based discrimination have been identified in Nepal. Discrimination is more entrenched in the country’s less-developed areas, especially in the Mid- and Far-western regions, but caste continues to influence inter-personal behaviours throughout the country.

No consensus has been reached on exactly which communities fall into the category of Dalit or on the actual population size. According to the 2001 Census, Dalits comprised 13 percent of the population but the figure is contested. The Dalits can broadly be categorised as either Hill Dalits (who make up 61 percent of the Dalit population) or Tarai Dalits. Ironically, among themselves the Dalits have traditionally practiced Hindu type stratification. Unlike many Janajatis, the Dalits have no geographical centre or “traditional homeland” where they are numerically predominant.

Nepal established the National Dalit Commission (NDC) in March 2002 with an all-Dalit membership. Its members were chosen based on party affiliations; its functions were not legally mandated and funding was inadequate. The NDC did draft a bill for itself but it had not yet become law by early 2006.

Dalit representation in the executive bodies of political parties remains very low. The only Dalit member of the House of Representatives was elected in 1991.

The Dalits have essentially been left to fend for themselves. With a few exceptions, Nepal’s non-Dalit actors have left it to Dalit leaders, activists and organizations to “fight their own battle”, which has not helped the Dalit movement.

Responses to ethnic discrimination
The demands of Nepal’s Adivasi Janajati movement centre mainly on issues of governance and political representation. One is the need for constitutional reform to remove discriminatory provisions. Another is for equitable repre-
sentation. The Janajatis also seek greater equality in linguistic rights, and guaranteed access to common properties/resources.

Nepal originally prepared a schedule listing 61 Janajati groups, which was later reduced to 59 in the law. Various complexities are involved in compiling a definitive list. Among the groups in the current list 18 are from Mountain regions, 24 from the Hills, 7 from the Inner Tarai and 10 from the Tarai. The 2001 Census enumerated only 43 of 59 Janajati groups and reported a population of 8.27 million or 37 percent of Nepal’s population. Members of 16 “missing” groups were apparently not counted.

Many disparities are found among the different Janajati groups. The Nepal Federation of Indigenous Nationalities (NEFIN) reports that 10 of the 59 Janajati groups are “endangered”, 12 “highly marginalised”, 20 “marginalised”, 15 “disadvantaged” and two “advanced” or better off. The GSEA recommends a fresh classification to identify disadvantaged Janajati groups based on poverty incidence, education levels and key health indicators to serve as a basis for eligibility to special state initiatives, including reservations and scholarships for those most disadvantaged.

Nepal’s Constitution explicitly uses the term Janajatis and acknowledges both their presence and their relative social and economic deprivation. The use of Nepali as the only official language is discriminatory, however. Constitutional reform is both an overarching demand related to many other issues, and an affirmation that the Janajatis want a wholly reformed contract with the state. The movement wants Nepal to be declared a secular state, and all Janajati languages recognised for use in state affairs alongside Nepali.

Equitable representation through different methods including “restructuring the Nepali state” by changing the electoral system and affirmative action measures are other key demands, as is access to common property resources once communally owned by certain Janajati groups.

Inclusive service delivery

Improving access to health

Nepal has started to put a greater emphasis on preventing diseases that afflict the poor and has begun reaching out to those with the greatest health burden. However, the effort to reorient policy and health services along a rights-based approach remains ad-hoc and immature.

Many interrelated factors – cultural, religious and social beliefs and norms (especially those that reflect the entrenched gender, caste and ethnic hierarchies) as well as economic, institutional and location-related specifici-
ties – lie behind these differential health outcomes. Because of their reproductive role and their low social status, outcomes for women are the worst.

Many determinants of health outcomes operate indirectly by reducing certain people’s access to healthcare and influencing the kind of care they receive. Institutional and political factors are important and are a major focus for policy intervention. These include government budgetary allocation and policy attention to rural healthcare and the diseases of the poor and women.

Although many professionals in the government health care service are dedicated to caring for the poor and disadvantaged, others have little motivation to serve those who are beneath them in the socio-economic hierarchy. Generally, most healthcare facilities, including trained personnel, are concentrated in urban areas. Men mostly staff the higher service positions – a major obstacle to proper healthcare for women.

Women’s health outcomes are directly affected by their subordinate status vis-à-vis the men and the senior women in the family. The preference for male children varies from group to group and is reflected in poorer female performance on all indicators, especially education and health.

When healthcare usage and outcomes are better for women, they are better for children as well. Brahmans, Chhetris and Newars have the best health indicators for women and also the lowest infant mortality rates.

The government has acknowledged and tried to address the problem of gender discrimination as a barrier to healthcare. But very little attention has been given to how the legacy of caste and ethnicity – and particularly the practice of untouchability – affects the interface between health service providers and patients of both sexes. For Janajatis and members of linguistic minorities in the Tarai, language is also an inhibiting factor.

Some of the determinants of high morbidity and mortality among excluded groups require actions beyond the health system. Improved transportation and sanitation infrastructure, reduced income and consumption poverty and increased education levels are all associated with better health outcomes. Meeting the objectives of the current health sector reform programme will require patient development of detailed formal modalities and mechanisms to overcome the barriers to inclusion.

**Improving access to education**

The state assumed responsibility for the education system in the 1970s; previously locally run schools were turned over to a centralised educational administration. Public education expanded rapidly thereafter. Quality did not keep up with the expansion in numbers, however.
To help poor and socially excluded children access the kind of education that will open opportunities for them, simply getting them into Nepal’s public schools as they currently operate will not be enough. The Nepal Education for All (NEFA) programme sets out three primary objectives: (i) ensuring access and equity in primary education, (ii) enhancing quality and relevance of primary education, (iii) improving efficiency and institutional capacity. For the first objective the government has specifically committed to provide equal access to educational resources for all excluded groups – girls, linguistic minorities, Dalits and Janajatis.

In an effort to reform the system and shift the incentives, in 2001 the parliament passed the Seventh Amendment of the Education Act, allowing management of local public schools to be handed over to School Management Committees (SMCs). The rules require at least one woman member but do not mandate Dalit or Janajati representation. Participation of both Dalits and women in the SMCs is low. Preventing elite capture and undue politicisation of SMCs is vital for their success, and is only possible through proper representation.

Schools with female teachers tend to attract more female students. For that reason the policy of having at least one female teacher per school in multi-teacher schools was established over a decade ago, and the NEFA requires at least two female teachers in such schools. However, neither policy has yet been fully implemented. Just as having a woman teacher tends to attract girl students, having Janajati or Dalit staff has a positive impact on those groups.

For most Janajati children Nepali is not their mother tongue so they are introduced to school and to a new language at the same time. Success in Nepali medium primary schools is also difficult for many people from the Tarai who speak Maithili, Bhojpuri or Hindi as their mother tongues.

Primary education is the foundation for ensuring educational parity among various groups, the first step towards effective social inclusion. The excluded groups are under represented in higher education – with Dalits being less than one percent of those with BA and above – and this is largely due to exclusion at the lower levels. Reforming education from below must be matched with affirmative action initiatives from above to support the higher education of members of excluded groups.

**Inclusive governance**

Governance is at the core of the GSEA – focusing as it does on equal citizenship. It also proposes two promising approaches for realising the equal citizenship goal – group-based development and affirmative action.
Local development groups and coalitions

Some grassroots groups have begun to replicate themselves and have organized into larger federations. These higher-level associations give voice and added political representation to their constituents. Local level groups are an important mechanism through which bottom-up empowerment has been taking place in Nepal. This is especially important in the current situation where the elected local bodies that were to be the pillars of grassroots democracy and the institutional anchors for decentralisation have remained inoperative since July 2002. However, the roles and responsibilities of grassroots community groups vis-à-vis local elected government remain to be clarified.

Some GSEA findings relating to groups include the following:

- Nepal has about 400,000 local-level sponsored groups that are being monitored by development agencies.
- The idealised notion of “community” fails to recognise factional interests within communities: class, caste and gender-related conflicts can and do occur even within community forestry groups, which are said to be the most successful of the local groups. Stratification and elite capture occur in women’s groups as well.
- Although women are fairly well-represented as group members, they continue to play a less prominent role on the executive committees. Data on group membership and leadership disaggregated by caste and ethnicity is almost non-existent.
- Often homogenous groups – in terms of gender, caste and ethnicity – are best suited for serving the interests of disadvantaged groups. Studies show that “elite capture” is more likely to occur in mixed groups.

The quiet revolution underway in Nepal is the expansion of the impetus for group-based collective action from the village level to district, national (and sometimes international) arenas through the formation of federations and associations of grassroots groups. These actions can only succeed in an environment that promotes freedom to form associations to pursue collective goals as well as government support – not restrictions.

Affirmative action

Affirmative action seeks to correct historical disadvantages and unfair discrimination by enabling access to full opportunity and benefits to groups that have been excluded. Overcoming the legacy of past inequality involves more than allotting some reserved seats in elected, administrative government, or in university admissions, etc.
Affirmative action as debated in Nepal relates not only to the civil service, but also to elected government and to the education, employment and health sectors. Affirmative action can also encompass changes in the electoral system in order to ensure proportional representation of different groups. This may be part of the answer in Nepal as well.

The government’s views on affirmative action are unclear. While the need for some sort of affirmative action for excluded groups is not disputed, the modality has been the source of some contention – as has the issue of which groups should be included.

A major challenge to the affirmative action agenda is the low number of qualified candidates in certain groups such as the Dalits. An effective “road map” to affirmative action needs to address this dimension – perhaps through a special programme to develop a “pipeline” of qualified candidates.

Probably the most contentious sphere for affirmative action is in elected government, and this is an area where the political parties have failed. The power structures of the main political parties have never been representative in terms of the gender, caste or ethnicity of the diverse citizens they claim to represent.

Affirmative action as a lever for social inclusion is necessary but not sufficient to bring about significant and sustainable positive outcomes for socially excluded groups. In order to be truly effective and sustainable, affirmative action requires the broad social and political commitment to equality and human rights articulated by Nepal’s Constitution, laws and policies. Ultimately, it requires changes in people’s beliefs and values.

Conclusions

After centuries of thinking about themselves as subjects of feudal rulers, more and more Nepalis are beginning to see themselves as citizens of a democratic state. Although the pace of this fundamental change in self-perception is uneven among groups at different levels on the social hierarchy, it is now being embraced even by those traditionally at the lowest echelons – especially women, Dalits and Janajatis. This change in self-perception has also altered expectations: people do not want favours from the powerful. Instead of patronage, they want rights – the same rights accorded to every citizen by law. They want uniform “rules of the game” to apply to all social players across the board. Social inclusion and empowerment are the interrelated processes that can bring this about. The GSEA ends with a set of recommendations on the long overdue policy and actions for addressing the various dimensions of social exclusion in Nepal.
CHAPTER 1

BACKGROUND AND FRAMEWORK
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The GSEA study

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Social exclusion as a concept

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Historical and cultural context of exclusion in Nepal

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GSEA conceptual framework
Democracy was established in Nepal in April 1990. It provided diverse groups space to express their opinions openly and to assert their identities and rights as citizens. However, the dominant order has remained largely confined to male Brahmans (Bahuns) and Kshatriyas (Thakuris and Chhetris) from the traditionally influential Parbatiya or Hill Hindu group, and the urban-based and generally well-educated Newars. The democratic transition failed to deliver on the promise of an inclusive polity mainly because, like most institutions in Nepal, the political parties continued to operate on the basis of deeply embedded and mutually reinforcing feudal, caste and patriarchal norms and networks – and were thus unable to represent and articulate the demands of all Nepalis. Those left at the margins were women; the “tribal” indigenous ethnic groups, the Adivasi Janajatis or “indigenous nationalities”; and the formerly “untouchable” castes now calling themselves Dalits (“oppressed”, “broken” or “crushed”). Muslims, who have high poverty levels, and the plains dwellers or Madhesis, who have substantial numbers but are largely excluded from political influence, are also on the margins.

The fact that even after the advent of multi-party democracy old hierarchies continued to structure access to political influence and economic opportunity led to the radicalisation of the demands of those who felt neglected by the new political order. The Communist Party of Nepal (Maoist),
CPN (M), launched its “People’s War” in February 1996 and included the persisting caste, ethnic and gender-based disparities in its political agenda. The Maoists were quick to capitalise on the growing discontent and sense of injustice, and even though their controlled state model has little space for individual or group freedoms or effective social change, they have been able to provide important symbolic recognition to disaffected women, Dalits and Janajatis and to bring their demands into public debate.

The GSEA study
The Nepal Gender and Social Exclusion Assessment (GSEA) has been a collaborative effort of the UK’s Department for International Development (DFID) and the World Bank. It is based on a series of studies, including primary research, by a number of Nepali and international scholars and analysts that have been submitted for discussion and review by stakeholders at different levels. The GSEA report has examined gender, caste and ethnicity as three interlocking institutions that determine individual and group access to assets, capabilities and voice based on socially-defined identity. It reports on how these institutions are changing and how state and civil society actors are responding to changes taking place in Nepal. It examines the linkages between exclusion and poverty and recommends strategies and actions to promote progress towards a more inclusive and equitable society. The GSEA was envisioned, researched and written between late 2002 and mid-2005.

Social exclusion as a concept
Social exclusion gained prominence in public discourse after inclusion was incorporated as one of four pillars of the 2003 Poverty Reduction Strategy Paper (PRSP), which is also Nepal’s Tenth Plan. As a result, there is now greater understanding that social exclusion is a structural problem and that solving it requires the state to move beyond welfare handouts to define and assure citizenship rights to all. In return, Nepal’s citizens need to shift from a mindset of dependency and patronage to one of individual and collective responsibility – the “price” for their rights. Balanced social and economic development can be attained only when rights and responsibilities complement each other. Therefore, attaining the PRSP’s inclusion goal will require fundamental shifts
At present, citizenship itself is problematic for many members of excluded groups, particularly for women who cannot pass citizenship rights on to their children and for many Dalits and Janajatis - especially those in the Tarai because of their high levels of landlessness. Although nothing in the legal code requires proof of land ownership as a basis for citizenship, officials continue to demand it. This requirement has excluded many landless Tarai Dalits and Janajatis from the basic rights and protection of citizenship. Included among these is the right to migrate for employment, which could, ironically, put them in a position to be able to buy land. Nepalis who are identified by their language, dress and customs as being “of Indian origin” face particular difficulty in government offices staffed predominantly with Nepali speakers of Hill origin. These people face many informal barriers to getting their citizenship papers - no matter how many generations their families may have lived in Nepal. Since the number of people born and residing in Nepal but lacking citizenship papers is estimated to be around 3.4 million (Dhanapati Upadhyaya Commission, HMG/N, 1995) this is not an insignificant issue. The right to citizenship need not pose such a problem. In fact, the Interim Constitution of 1953 granted the right to citizenship to “every person who had been permanently residing within the territory of Nepal with their family”. The 1990 Constitution greatly restricts this right.

Historical and cultural context of exclusion in Nepal

The priestly Brahmans were at the top of the caste hierarchy with the Kshatriya (kings and warriors) just beneath them; next came the Vaishya (merchants) and...
the Sudra (peasants and labourers). (See Figure 2.) Beneath everyone were occupational groups, considered “impure,” and “untouchable” or acchut. They now call themselves the Dalits. In the Hills the top two ranks (priest and warrior) and the lowest (“untouchable”) rank were filled by the in-migrating Hindus of Caucasoid stock who spoke an Indo-Aryan language on which modern Nepali is based. The middle rank was accorded to indigenous groups, generally of Mongoloid racial stock. These groups - classified by the Hindus as Matwali or liquor drinkers - generally spoke Tibeto-Burman languages and followed Buddhism or various shamanist/animist religions. The Matwalis comprise the Adivasi Janajatis (indigenous nationalities). The Muluki Ain or Country Code (1854) brought all these diverse groups together under a single legal system, but accorded differential privileges and obligations to each caste and sub-caste. For many groups, therefore, the conquest by the rulers of Gorkha and their subsequent unification of Nepal was an “exclusionary inclusion”.

During the Shah-Rana era (1768-1951), Nepal had no alternative “institutions” or ideologies backed by any economic and political power equivalent to the feudal regime. Especially during the rule of the Rana oligarchy (1847-1951), the caste system and the patriarchal gender system of the dominant group were reinforced by the state. It was an era of consolidation of power and entrenchment of social inequity that can occur in the absence of competing world views.

During the Panchayat period (1962-1990), the state attempted to build a “modern” and “unified” nation. Although directly ruled by a king, Nepalis were for the first time beginning to think of themselves as citizens rather than subjects. Nepal abolished caste-based discrimination in 1963. However, the diversity of languages, gender, kinship systems and spiritual outlooks of Nepal’s many different social groups were framed as barriers to development that “had” to be merged to conform to a single common “modern” Nepali culture. Cultural “unity” was projected as essential to nation-building and the maintenance of independence.
The Constitution of 1990, drafted after the Jana Andolan or People’s Democratic Movement against the Panchayat regime, established Nepal as a more inclusive state. It describes the country as “multi-ethnic, multi-lingual and democratic” and states that all citizens are “equal irrespective of religion, race, gender, caste, tribe or ideology”. The Constitution also gives all communities the right to preserve and promote their language, script and culture, to educate children in their mother tongue, and to practise their own religion. Nevertheless, it retains some contradictions and ambiguities – declaring Nepal a Hindu Kingdom, denying women the right to pass their citizenship to their children and explicitly protecting “traditional practices”. These have left room for the continuation of gender and caste-based discrimination.

The new Constitution allowed space for another major development – the growth of civil society organizations, especially those based on ethnic and caste identity. The post-1990 period witnessed the dismantling of the old projection of a “single Nepali culture” based on that of upper-caste Parbatiyas. Self-chosen terms like Dalit and Janajati emerged to replace terms like “tribal”, Matwali and “sano jat” (“small caste”) that had been used to describe ethnic and “low caste” groups. However, in many hierarchical institutions, especially the powerful informal networks, behavioural norms and expectations remained unchanged. Therefore the unitary, centralised and non-inclusive state structure is still largely unchallenged. The political parties failed to adequately integrate issues of exclusion into their action plans, and even aid agencies, focused on their political need to disburse aid, did not for the most part insist on fundamental changes in the rules of the game.
On February 1, 2005, the King began direct rule, as chair of the Council of Ministers. Some new institutions reporting directly to the King have been created, controls have been placed on the media and civil society organizations and there is a widespread sense that constitutionally guaranteed freedoms are under threat. The parliamentary parties have continued to protest against direct rule and demand restoration of democracy. Nepal’s efforts to change the lives of the poor and excluded remain caught up in uncertainty resulting from the unresolved political tussle between the King, political parties and the Maoists. The suspension of democratic government in February 2005 (for three years) by the King could delay the advancement of rights of all Nepalis, especially the most excluded populations: women, Dalits and Janajatis.

**GSEA conceptual framework**

The GSEA analyses relationships between people, institutions and organizations. Institutions are defined as the “rules of the game”. Organizations are groups of individuals, bound by a common purpose, involving a defined set of authority relations and dedicated to achieving objectives within particular “rules of the game”. The interrelated processes of empowerment and social inclusion are means to shift these relationships and the institutions and organizations that embody them, towards greater equity and overall prosperity as shown in Figure 3.

At the core of this conceptual framework are three domains of change where the state, civil society and donor organizations can intervene to improve access to the following for the poor and excluded:

- livelihood assets and services;
- the ability to exercise voice, influence and agency; and
- a say in framing “the rules of the game” that mediate and regulate people’s participation in the life of the state and larger society as well as their access to livelihood opportunities and political influence.
The first two domains of change (‘access to assets and services’ and ‘voice, influence and agency’) are part of the empowerment process. The last domain of change (‘rules of the game’) is where social inclusion does, or does not, take place.

The definitions of empowerment and social inclusion used by the World Bank (2002) are as follows:

- **Empowerment is the enhancement of assets and capabilities of diverse individuals and groups to function and to engage, influence and hold accountable the institutions that affect them.**
- **Social inclusion is the removal of institutional barriers and the enhancement of incentives to increase the access of diverse individuals and groups to development opportunities.**

Empowerment is seen as occurring at the individual and group level and, to an important extent, has to do with changes in the internal self-perceptions of those who have been in some way negatively defined and excluded by the dominant society. Empowerment builds their sense of agency or their capacity to act on their own behalf, and helps them realise the power they gain from collective action. This domain of change is presented as a triangle in Figure 4. Empowerment also has to do with increasing their access to assets, services, and livelihood opportunities, as is represented by the pentagon in Figure 4.

Social inclusion seeks to bring about system-level institutional reform and policy change to remove inequities in the external environment. Social inclusion requires a shift from an institutional environment that gives some individuals and groups more opportunity to realise their potential to exercise agency and control over their lives.
their agency than others to one where the political system and the rule of law support equal agency for all (Rao and Walton 2004). Social inclusion changes the opportunity structure within which individuals and groups seek to exercise their agency. It requires change in incentives and also improved capacity within state and community organizations to ensure that organizations can and will respond equitably to the legitimate demands of all individuals—regardless of their social identity. This process, as it leads to greater equality of agency, will bring about sustainable prosperity for all through improved access to the assets and capabilities required for achieving a secure livelihood and broad-based economic growth.

Empowerment and social inclusion play complementary roles in promoting equity of agency and sustainable prosperity for all. These two concepts are the basis of the GSEA.

More often than not, reforms that promote social inclusion are reluctantly conceded by entrenched power holders who are forced to do so by economic and political events they can no longer control. Occasionally reforms are also actively championed by change agents who are allies of the poor and who may have come to power within the current ruling group or from the opposition. In other words, while the inclusion dimension of the social change process may be a response to pressure from below created through empowerment, it can also be instigated from positions of relative power within the existing institutional framework. (See Figure 3.)

The Conceptual Framework in Figure 4 is useful in linking the theory of social change underpinning the GSEA to the kinds of concrete policy choices and programme actions that government, donors and civil society actors can carry out to support that change. It is premised on the understanding that change that does not happen in all three domains will have less impact and will be less sustainable than change that does occur in all three. For example, assets may be increased temporarily by providing food or cash for work, but unless poor people can claim their rights to education there will be no sustainable improvement in livelihoods, people will not be empowered and social exclusion will remain. Processes to increase assets and access to services; to increase voice, influence and agency; and to change the rules of

**BOX 3 Social inclusion and equity**

“... equity is intrinsically important as a development goal in its own right... a broad sharing of economic and political opportunities is instrumental for economic growth and development. Broadening opportunities strongly supports the first pillar of the Bank’s development strategy namely, improving the investment climate for everyone. The interdependence of the economic and political dimensions of development also reinforces the importance of the second strategic pillar, empowerment.... these two pillars are not independent from each other in supporting development but instead reinforce each other.”

*Paul Wolfowitz, President, The World Bank, from the Foreward to the ‘World Development Report 2006’*
the game are all interlocking, and the arrows in Figure 4 represent relatively unidirectional change. Meaningful and sustainable change in each domain is unlikely to happen without change in the other domains, and change in one domain generally follows from change in the others. The implications of this are the following.

In order for the discriminatory and exclusionary “rules of the game” that now exist to change in a way that will increase the access of diverse groups to development opportunities, the poor and excluded who constitute these groups must have greater voice and agency, either through their own representative organizations or as part of coalitions for change. Furthermore, they must be able to use this new-found voice and agency to influence existing institutions towards greater openness and equity. Rules do not change on their own; discriminatory and exclusionary rules are created and perpetuated because they benefit those who hold power. Those who hold power do not change these rules unless they are compelled to do so. Removing barriers and creating and enforcing incentives for change is usually a long and arduous process that can take years of advocacy and lobbying.

For poor and excluded people to gain greater access to assets and services, the rules of the game must change in their favour. The reason that
exclusion causes and perpetuates poverty is because exclusionary and discriminatory rules of the game deny certain groups of people access to those things that will help them rise out of poverty. The livelihood status of poor and excluded people can be improved in a sustainable manner only when the rules change to be more equitable and just.

To meaningfully engage, influence and hold accountable the institutions that affect them, poor and excluded people must have the capabilities necessary to voice their rights, to form effective representative organizations, and to forge coalitions for change. Illiterate, ill, starving, isolated and poverty-stricken people cannot do this; they need assets and access to services and opportunities.

The inter-related processes of exclusion and disempowerment take place at various levels. One is within the individual and involves internalisation of a negative definition of his or her own identity. To a large extent the rules/norms/
beliefs and behaviours laid down by the surrounding institutions define who the individual is, how individuals are valued by society, and what they can or cannot do. In Nepal, since males from the dominant privileged caste group have primarily defined these institutions, it is not surprising that these institutions are very disempowering for an individual woman, Dalit, Janajati or member of a linguistic or religious minority.

Critical sites of disempowerment and social exclusion may vary for different categories of excluded people. (See Figure 5.) For example, for women, the home and family is a key site where norms, beliefs and behaviours have to be changed to enable them to exercise their agency. Community norms and formal laws must also be changed, but change in the domestic site is fundamental. In contrast, for Dalits, the local community is where caste-based discrimination is likely to be most strongly enforced and harshly experienced. A senior Dalit man is still dominant within his family despite the restrictions he faces in the community. However, a Dalit woman who is subordinate in both the gender and the caste domains encounters discrimination in the home as well as in the community. Community level discrimination against
the Janajatis is much more muted and has in most cases been effectively countered by the pride Janajatis take in their ethnic identity and in the cultural traditions of their own group. For Janajatis, the most problematic site in terms of empowerment and inclusion is at the level of the state - in terms of laws, policies, resource allocation and representation.
CHAPTER 2

POVERTY OUTCOMES
POVERTY OUTCOMES

Defining poverty

≠

Economic poverty

≠

Human development poverty

≠

Political poverty

≠

Local power relations and poverty
Defining poverty

The GSEA examines poverty outcomes using indicators of economic well-being, human development levels and voice and political influence. Data from national surveys were reanalysed and members of the team also carried out primary field research and analysis on empowerment and social inclusion levels of men and women and different social groups.

Poverty outcomes were examined by caste and ethnic group – when data were available, further analysis was done by sub-group. The National Living Standards Survey (NLSS), the major source of data on economic poverty outcomes, is collected at the household rather than the individual level; thus gender disaggregated analysis of this dimension is more limited. Nevertheless, the analysis has drawn on a number of indicators (e.g. asset ownership, labour force participation and wage rates) that are available separately for male and female.

Nepal began generating data on caste and ethnicity only in 1991 when 60 caste and Janajati groups were listed. The 2001 census listed 103 social groups, based on caste, ethnicity, religion and language and unidentified groups, some numbering less than 0.1 percent of the population. For ease of analysis the GSEA has organised the 103 groups into 10 major categories (Table 1). Numerically no single group is predominant. Broadly, the population can be divided between the Hindu caste groups and Janajatis, and a third group, the religious minorities (mostly Muslim). In 2001, caste groups constituted

<table>
<thead>
<tr>
<th>% Total population</th>
<th>GSEA / NLSS II (10 groups)</th>
<th>2001 Census (103 groups)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu caste groups (57.5%)</td>
<td>1. BC (Hill) Brahman, Chhetri, Thakuri, Sanyasi, Kayastha, Rajput, Baniya, Manwadi, Jaine, Nurang, Bengali</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. BC (Tarai) Yadav, Teli, Kalwar, Sudi, Sonar, Lohar, Kori, Kurmi, Kanu, Haluwai, Hajam/Thakur, Badhe, Rajbhar, Kewat Mallah, Numhar, Kahan, Lodha, Bing/Banda, Bhediyar, Mali, Kamar Dhunia</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Tarai Middle Castes Kami, Damai, Sarki, Gaine, Badi</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Dalits (Hill) Chamar, Musahar, Tatma, Bantar, Dhusadadhi/Paswan, Khatway, Dom, Chidimar, Dhobi, Halkhor, Unidentified Dalit</td>
<td></td>
</tr>
<tr>
<td>Janajatis (37.2%)</td>
<td>5. Dalits (Tarai) All Newari Castes Magar, Tamang, Rai, Gurung, Limbu, Sherpa, Bhotra, Walung, Buans, Hyolmo, Ghar/Bhujel, Kumal, Sunuwar, Baramu, Pahari, Adivasi, Janajati, Yakkha, Shantal, Jirel, Dari, Dura, Majhi, Dunuwar, Thami, Lepcha, Chepang, Bote, Raji, Hayu, Raute, Kasunda</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6. Newar All Newari Castes</td>
<td></td>
</tr>
<tr>
<td>Muslims (4.3%)</td>
<td>8. Janajatis (Tarai) Muslim, Churoute</td>
<td></td>
</tr>
<tr>
<td>Others (1%)</td>
<td>9. Muslims</td>
<td></td>
</tr>
<tr>
<td></td>
<td>10. Others</td>
<td></td>
</tr>
</tbody>
</table>
57.5 percent of the population, Janajatis 37.2 percent and the religious minorities 4.3 percent. As shown in Figure 6, among the 10 major social groups, the Hill Brahmans and Chhetris (B/C) had the highest numbers (30.9% of the population), Hill Janajatis (including the Newars) 28.5 percent and the Tarai Middle Castes 12.9 percent.

The population density of Nepal varies widely. Approximately half of Nepal’s population lives in the Mountain and Hill areas and half lives in the much smaller area of the Tarai plains. Nepal is still largely a rural country, with 86 percent of its population living in rural areas and the remaining 14 percent living mainly in Kathmandu and other emerging urban areas. The geographic areas where different ethnic groups are concentrated are shown in Map 1.

**Economic poverty**

**Income and Consumption poverty** The Nepal Living Standards Survey, 2003/4 (NLSS-II) estimated that 31 percent of Nepalis were living below the poverty line. This means they lived in households where per capita expenditure for food and non-food items was beneath that required to purchase the minimum caloric requirement and other “basic needs.” This was a significant drop in poverty incidence from the NLSS I in 1995/6, which showed that 42 percent of the population were below the poverty line. Figure 7 shows that poverty incidence has fallen for all groups, but that the Brahman/Chhetri group and the Newars have the fewest households below the poverty line, and that the Tarai Middle Castes also have relatively low proportions in pov-
MAP 1
Ethnographic map of Nepal

Source: Harka Gurung
property. In contrast, almost half of all Dalits live below the poverty line, and poverty incidence among Hill Janajatis and Muslims is significantly higher than the national average. The data must be approached with some caution both because Janajati poverty aggregates mask intra group differentials and because the sample size for NLSS data was small when compared to Census data. For example, the Gurungs in the NLSS II sample have only 20 percent living in poverty compared to the Tamangs, whose proportion below the poverty line (61%) is almost double the national average. These differences, however, are less extreme when small area estimation statistical techniques are used to project the relatively small NLSS sample onto the Census data. Nevertheless, the results of this exercise show that Tamang poverty incidence (at 50%) is still considerably more than that for Gurungs (35%) (Parajuli, forthcoming).

**Caste and ethnic “penalties”** According to NLSS II, the average per capita consumption for Brahman/Chhetri households is NRs.19,105 whereas the per capita consumption for Dalit, Janajati and Muslim household...
holds is NRs. 10,207, NRs. 12,331, and NRs. 10,909 respectively. However, some assert that these welfare differentials may be due to factors other than the effect of caste/ethnicity *per se*. Proponents of this line of thinking point out that the lower standards of living and higher incidence of poverty of certain caste/ethnic groups may be due to large family size or a higher proportion of dependent children, or to the fact that they live in disadvantaged remote areas - rural Hill areas or the Far-Western region. Others in political and development circles have frequently suggested that the higher poverty levels among Dalits, Janajatis and Muslims result from their lower levels of resource endowment (including educational attainment) and consequent lack of access to more productive occupations compared to those groups who have been historically privileged.

To explore the strength of these various factors and answer the basic question of whether caste/ethnicity differentials in the standards of living still persist when these important confounders are taken into account, a multiple regression analysis was carried out. For the purpose of this exercise the dependent variable is the nominal per capita consumption at current prices,

### TABLE 2 Unstandardised regression coefficients per capita consumption (in NRs.)

<table>
<thead>
<tr>
<th>Variables</th>
<th>Regression Coefficients</th>
<th>Model I</th>
<th>Model II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caste/Ethnicity (omitted group: B/C + other high caste groups)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tarai Middle Caste</td>
<td>-5911</td>
<td>-3724</td>
<td></td>
</tr>
<tr>
<td>Janajati</td>
<td>-8774</td>
<td>-4099</td>
<td></td>
</tr>
<tr>
<td>Newar</td>
<td>8056</td>
<td>2772</td>
<td></td>
</tr>
<tr>
<td>Dalit</td>
<td>-8899</td>
<td>-4853</td>
<td></td>
</tr>
<tr>
<td>Minorities</td>
<td>-8196</td>
<td>-4449</td>
<td></td>
</tr>
<tr>
<td>Female Household Head</td>
<td></td>
<td>4388</td>
<td></td>
</tr>
<tr>
<td>Household Size</td>
<td></td>
<td>-46</td>
<td></td>
</tr>
<tr>
<td>Proportion of Household Members (omitted group: adults)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proportion of Children up to 6 Yrs.</td>
<td>-20184</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proportion of Children 7 – 15 Yrs.</td>
<td>-13616</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Occupation (omitted group: manual labour)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional</td>
<td>2564</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technical</td>
<td>-36</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farm/forestry</td>
<td>1520</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education (omitted group: illiterate)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Primary</td>
<td>2404</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Above Primary</td>
<td>7618</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remittance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural</td>
<td>-11348</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hill and Mountain</td>
<td>-1980</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Midwest and Far West</td>
<td>-3179</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>19105</td>
<td>32231</td>
<td></td>
</tr>
<tr>
<td>Adjusted $R^2$</td>
<td><strong>0.083</strong></td>
<td><strong>0.291</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: Calculated by Gajurel
which has been considered as a better index of welfare measure than income in developing regions (Van de Walle and Gunewardena, 2001).

Table 2 compares two models. In Model I the Brahman/Chhetri group is the constant in the regression analysis, which includes only the caste/ethnic variables. The results show that the average per capita consumption for Dalit households is NRs. 8898 (or 46%) lower than that of Brahman/Chhetri households. Similarly, the per capita consumption in Janajati households is NRs. 6774 (or 35%) less and for Muslim households it is NRs. 8196 rupees (or 43%) less than the reference. In Model II, which takes into account the above background variables, household per capita consumption among Dalits, Janajatis and Muslims is still considerably lower than that of Brahman and Chhetri households. This unexplained gap in consumption levels can be seen as a “penalty” attached to social identity as a Dalit, Janajati or religious minority and it translates into NRs. 4853, NRs. 4099 and NRs. 4449 less respectively in per capita consumption.
Other poverty measures
In addition to the poverty incidence (what percentage of a given group are below the poverty line), analysts also consider consumption quintiles and calculate both the poverty gap (which measures the depth of poverty by calculating the amount needed to bring the consumption level of a particular group up to the poverty line) and the squared poverty gap (which measures the severity of poverty by giving more weight to the poorest of the poor). Nevertheless, when the data are analysed by caste and ethnic group a common pattern emerges regardless of the indicator: Hill Janajatis, Dalits and Muslims always fare the worst; at the other end of the spectrum, the Newars and the B/C group always fare the best.

Remittances  On average, in 2004/05 Nepal was receiving about one billion rupees in remittances every day. Between 1996 and 2004, the percentage of households receiving remittances rose from 23 to 32 percent and the average amount received increased from NRs. 625 to NRs. 2,100 per person per year. While in 1996 only 22 percent of the remittance income came from household members working outside Nepal in countries other than India, by 2004 remittances from countries other than India accounted for 53 percent of the remittance flow (CBS 2004).

The group with the largest share of migrant members who are working abroad in places other than India are the Hill Janajatis (29%), followed by the Muslims (24%), who are in high demand in the Middle East. For other groups the proportion of their total migrants in these high-wage countries ranges from 14 percent for the Tarai Janajatis and Tarai Dalits to 20 percent for the Newars.

Remittances make up about one third of the annual household income for families who receive remittances. Not surprisingly, since they have the highest proportion migrating to the countries offering the best wages, the Hill Janajati group has the highest average remittance income - followed by the total B/C group and the Newars. But this is a very dynamic sector and new opportunities, which could shift this balance, open up almost daily. The Muslims, who on average have among the lowest average per capita incomes,
receive a slightly higher percent of their household incomes from remittances. (See Figure 8.) Women make up only 10.8 percent of the migrants sending funds back home, but they constitute 48.5 percent of the recipients (NLSS II, CBS, 2004).

**Gender dimensions of poverty** Household level data such as the NLSS are not very useful for documenting and understanding the gender dimensions of poverty. Average household per capita income and consumption data do not show the intra-household disparities in access and control over household resources and may mask significant gender-based differentials in consumption levels and certainly in economic security. As a window into these disparities, it is useful to look at the data gathered in the 2001 Census on ownership of land, livestock and real estate by gender. In spite of the cultural differences between the caste Hindus and the Janajati groups (and even within each of these groups) in terms of the social norms governing gender relations, land is inherited universally in all communities from the father to the son. Women therefore face much greater economic insecurity than men since their access to what has traditionally been the primary means of production has always been indirect and dependent on their relation as daughter, wife or mother of a land owning male (Acharya and Bennett, 1981; Gurung, 1999).

Only about 11 percent of households reported any land in female legal ownership; six percent reported that women had “some” ownership of a house. (See Figure 9.) Surprisingly, only seven percent reported female ownership of livestock, even though for many groups livestock rearing is traditionally a female task, and in spite of the fact that many credit institutions and microfinance programmes have targeted women and made loans to them for this activity.

Overall, fewer than one percent of households reported female ownership of all three types of assets (house, land and livestock). While on the whole, 77 to 92 percent of households reported owning a house and between 42 to 80 percent reported owning some livestock, only a miniscule proportion of the women in these households had such tangible property in their names.

Traditional gender roles continue in force. If households can afford it, women are confined to non-market (unpaid) work in the care economy and family enterprises. When they do work for pay, women are largely confined to less productive jobs. The National Labour Force Survey (1998) shows that:

- 72 percent of women are working in agriculture versus 48 percent of men - and this overall pattern holds across all ethnic/ caste groups.
The proportion of men currently employed in the formal non-agricultural or “modern” occupational sector is much higher (21%) than that of women (6%).

Women continue to be confined primarily to unpaid family labour. Nearly 60 percent of currently employed women fall in this category, compared to 21 percent of men.

Due in part to their lower education levels women also earn less than men. Women’s daily wages in the agricultural sector are NRs. 47 per day compared to the average male wage rate of NRs. 63; women’s daily wages in the nonskilled, nonagricultural sector are NRs. 54 compared to NRs. 104 for men; and for skilled non-agricultural labour women get an average of NRs. 126 compared to NRs. 315 for men (World Bank 2005a).

**Human development poverty**

**Health**

Health outcomes are affected by many interrelated factors. These include cultural, religious and social beliefs and norms - especially those that reflect cultural, religious and social beliefs and norms - especially those that reflect...
Gender, Caste and Ethnic Exclusion in Nepal

the entrenched gender, caste and ethnic hierarchies - as well as economic, institutional and location-related specificities.

**Caste and ethnic disparities** Caste and ethnic disaggregated data presented in Table 3 highlights the glaring disparities in the health outcomes of different groups. The Brahman/Chhetri group as a whole and Newars have higher health indicators than other groups, and have the longest life expectancy. On average, Brahmans and Newars live 11 to 12 years longer than Dalits and Muslims (UNDP 2001). The Brahman/Chhetri group and Newars also have the lowest infant mortality rates - 52.5/77.8 and 56, respectively - compared to the national average of 79 per thousand. A Dalit child is twice as likely to die in its first year than either a Newar or a Brahman child. Under-five mortality is also much lower for Brahmans and Newars (69 and 75 respectively) than for Dalits (171), Muslims (158) or Tamangs (141). This is probably at least partly because women from the first two groups have the highest literacy rates and a strong linkage is found between mother’s education and child survival (NDHS 2001).

**Gender disparities** Until the 2001 Census reported for the first time that female life expectancy in Nepal was slightly higher than male life expectancy (60.7 years for women, 60.1 years for men), Nepal was one of few countries in the world where a woman’s life expectancy was lower than that of a man. Another indicator of female vulnerability in Nepal is the persistence of higher infant and under-five mortality rates for girls than boys. (See Table 4.)

### TABLE 3: Disparities in mortality rates and life expectancy by caste/ethnic groups, 1996

<table>
<thead>
<tr>
<th>Caste / Ethnicity</th>
<th>Under 5 MR (per '000)</th>
<th>IMR (per '000)</th>
<th>Life Expectancy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brahman</td>
<td>69.0</td>
<td>52.5</td>
<td>61.4</td>
</tr>
<tr>
<td>Chhetri</td>
<td>109.1</td>
<td>77.8</td>
<td>58.4</td>
</tr>
<tr>
<td>Yadav/Ahir</td>
<td>142.0</td>
<td>98.5</td>
<td>54.2</td>
</tr>
<tr>
<td>Dalit</td>
<td>171.2</td>
<td>116.5</td>
<td>50.8</td>
</tr>
<tr>
<td>Newar</td>
<td>74.9</td>
<td>56.0</td>
<td>63.2</td>
</tr>
<tr>
<td>Tamang</td>
<td>141.2</td>
<td>98.0</td>
<td>54.2</td>
</tr>
<tr>
<td>Magar</td>
<td>135.9</td>
<td>94.7</td>
<td>54.9</td>
</tr>
<tr>
<td>Limbu</td>
<td>133.3</td>
<td>93.2</td>
<td>55.2</td>
</tr>
<tr>
<td>Rai</td>
<td>133.0</td>
<td>92.9</td>
<td>55.3</td>
</tr>
<tr>
<td>Gurung</td>
<td>126.3</td>
<td>88.6</td>
<td>56.1</td>
</tr>
<tr>
<td>Tharu</td>
<td>106.4</td>
<td>76.0</td>
<td>58.7</td>
</tr>
<tr>
<td>Muslim</td>
<td>158.3</td>
<td>108.6</td>
<td>52.2</td>
</tr>
</tbody>
</table>

**Source:** UNDP 2001: Nepal Human Development Report (NHDR)

*Disaggregated data by gender and caste is unavailable*

### TABLE 4: Infant and child mortality rates by sex, 1996-2001

<table>
<thead>
<tr>
<th>Year</th>
<th>IMR (per '000)</th>
<th>Under 5 MR (per '000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996, total</td>
<td>83.7</td>
<td>135.5</td>
</tr>
<tr>
<td>Male</td>
<td>78.5</td>
<td>118.3</td>
</tr>
<tr>
<td>Female</td>
<td>101.9</td>
<td>142.8</td>
</tr>
<tr>
<td>2001, total</td>
<td>75.2</td>
<td>104.8</td>
</tr>
<tr>
<td>Male</td>
<td>64.4</td>
<td>91.2</td>
</tr>
<tr>
<td>Female</td>
<td>79.2</td>
<td>112.4</td>
</tr>
</tbody>
</table>

**Source:** UNDP 2004: Nepal Human Development Report (NHDR)
The sex ratio is an important indicator of the relative balance of policy attention given to male and female welfare and the socio-cultural gender values that underpin it. Figure 10 shows the sex ratio by caste/ethnicity; note that for Tarai based groups this ratio is high whereas for the Hill Dalits it is low. The “missing women” in the conservative Tarai belt is indicative of marked gender discrimination.

There are significant variations in access to healthcare between women from different caste and ethnic groups. Data from the 2001 NDHS show that access to and use of a range of health and family planning services for rural women is lowest among Dalit and Tarai Middle Caste women. Knowledge levels of Dalit women are also very low compared to Newars, Brahman/Chhetris and Hill Janajatis. Contraceptive use among married rural women is lowest for Dalits (28%) and Muslims (15%), while Newars and Tarai Janajatis have the highest contraceptive use. There is still significant unmet contraceptive need, most notably among Muslims (45%), but also among many other groups. The national average stands at 30 percent.

Muslim women and the Tarai Middle Caste groups (both practicing female seclusion) have the lowest awareness of HIV/AIDS prevention. Knowledge levels of Dalit women are also very low compared to Newars, Brahman/Chhetris and Hill Janajatis. Tharu women, despite high contraceptive use, have the lowest HIV/AIDS awareness levels among the Janajatis.

The use of professional help for deliveries is also low - over six of ten births are unassisted (World Bank 2005a). Almost 95 percent of Nepal’s Emergency Obstetric Care (EOC) needs remain unmet. The combined effect of these factors is at least 12 daily deaths from pregnancy related complications (MoH/DFID 2004). Among rural women, Newars and Brahman/Chhetris have the highest access to trained assistance during child delivery (Figure 11), and Janajatis and Dalits have the least. The same trend is seen for antenatal care. Maternal mortality also includes deaths caused by unsafe abortions. According to the Ministry of Health (2002) at least 20 percent of maternal deaths are caused by unsafe abortions. The demand...
The Total Fertility Rate for uneducated women is 4.8 whereas for women with some secondary education it is 2.3 (NDHS 2001). The under-five mortality rate for children of uneducated mothers in Nepal is 121 per 1,000 births: this is 64 percent higher than that for children of mothers with some primary education and nearly double that of children whose mothers have some secondary education (NDHS 2001). The risk of death among children of uneducated mothers is eight times higher than the risk for children of mothers with SLC and above education. (See Figure 24, on page 73.) Similarly, the prevalence of underweight children is 78 percent higher, and the prevalence of stunting is 62 percent higher among children whose mothers do not have secondary education when compared with those whose mothers do (World Bank 2005a). Further analysis by the World Bank found that even when controlling for income and other confounding variables, Dalit, Tarai Middle Caste and Muslim children had a significantly higher prevalence of both stunting and underweight (World Bank 2005a).

### TABLE 5 Educational attainment (percent) by caste/ethnicity

<table>
<thead>
<tr>
<th></th>
<th>Never Attended</th>
<th>Grades 1-4</th>
<th>Grades 5-10</th>
<th>SLC and Above</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hill B/C</td>
<td>31.6</td>
<td>24.6</td>
<td>33.7</td>
<td>10.1</td>
</tr>
<tr>
<td>Tarai B/C</td>
<td>26.6</td>
<td>25.6</td>
<td>29.6</td>
<td>18.2</td>
</tr>
<tr>
<td>Tarai Middle Caste</td>
<td>56.8</td>
<td>22.0</td>
<td>17.4</td>
<td>3.8</td>
</tr>
<tr>
<td>Hill Dalits</td>
<td>43.3</td>
<td>31.9</td>
<td>23.1</td>
<td>1.7</td>
</tr>
<tr>
<td>Tarai Dalits</td>
<td>76.4</td>
<td>14.9</td>
<td>7.5</td>
<td>1.2</td>
</tr>
<tr>
<td>Newars</td>
<td>28.5</td>
<td>20.8</td>
<td>27.6</td>
<td>23.0</td>
</tr>
<tr>
<td>Hill Janajatis</td>
<td>44.6</td>
<td>27.2</td>
<td>25.2</td>
<td>3.0</td>
</tr>
<tr>
<td>Tarai Janajatis</td>
<td>47.2</td>
<td>24.1</td>
<td>24.2</td>
<td>4.5</td>
</tr>
<tr>
<td>Muslims</td>
<td>62.4</td>
<td>24.9</td>
<td>11.0</td>
<td>1.7</td>
</tr>
<tr>
<td>Nepal</td>
<td>44.0</td>
<td>24.7</td>
<td>24.6</td>
<td>6.7</td>
</tr>
</tbody>
</table>

Source: NLSS II, tabulated by Gajurel.

for safe abortion rose after abortion was legalised by the 11th amendment of the Muluki Ain in 2002.

### Education

Education is the key to building a more inclusive Nepal since it offers people an outlet from traditional systems of economic dependency and opens opportunities for better jobs. The increased awareness that comes with more schooling also provides the foundation needed to build a critical awareness of how existing systems have used social differences to maintain
differential power and opportunity structures, and the confidence to question them.

Table 5 shows the great range in the percentage of different groups who have ever been to school. Fewer than 30 percent of Brahmans and Chhetris and fewer than 29 percent of Newars have not been to school, compared to 43 percent of the Hill Dalits, 76 percent of the Tarai Dalits, 62 percent of the Muslims and 45 percent of the Hill Janajatis. Dalits have the lowest completion rates for primary education, followed by Muslims. For SLC level education the completion rates are even lower for Dalits. While Dalits have increased their share in the graduate or higher education level, they still account for less than one percent of the graduate population (Census 2001, CBS).

Nepal has made rapid progress towards its MDGs of universal primary education and gender parity by 2015; however, there are persistent gender, caste and ethnic disparities. The overall literacy rates for the population age six years and above have improved significantly, from 23 percent in 1981 to 54 percent in 2001. Figure 12 and Figure 13 show that the same pattern is seen both for literacy and school enrolment. Literacy rates are improving for both males and females, faster for females so the gender gap is narrowing. It is noteworthy that over the past ten years the net enrolment for girls in the 6-10 age group rose by 44 percent (to 67%) and is quickly approaching the enrolment rate for boys (78%). Assuming that the gender gap continues to narrow at this rate, Nepal will achieve gender parity in enrolment by 2010.

The national data mask stark inter-group differentials and Figure 14 also shows
that gender disparities are particularly high in the Tarai Middle Caste group, where 94 percent of the 6-10 year old boys are in school compared to only 58 percent of the girls. It is also notable that participation is low for both boys and girls in the Muslim community (the percentage of Muslim girls going to school in the 11-15 age group remained stagnant at 23 percent between 1995/6 and 2003/4). Disparities are particularly strong among the Tarai and Hill Janajatis. Many of these groups, most notably the Chepang and Bote (with literacy rates of 14% and 21% respectively), lag seriously behind the national average. Many Janajati groups are at a disadvantage because they live in remote areas and because Nepali is not their mother tongue. On the other hand, it is encouraging to note a sharp increase in the enrolment of Dalits, and that now the six to ten year olds are only a few points below the Brahman/Chhetri group. Among children in poor households, however, the percentage of 6-10 year olds and 11-15 year olds out of school climbs to 36 and 42 percent respectively (World Bank 2005a), and more than two-thirds of these are girls. These children are most at risk if Nepal does not achieve the education MDGs. They will almost certainly inherit and perpetuate a life at the margins of economic and political life.

**Political poverty**

**Women’s participation in governance**

Efforts to increase women’s participation in elected government after 1990 have largely failed. Women have never gained more than six percent of the seats in the lower house and even in the upper house, where parties can place women if they desire or where women can even be appointed by the King, their proportion has mostly hovered at five percent. They account for only small percentages of the Central Executive Committee membership of the main political parties: 9.6 percent of the central committee of the Nepali Congress (NC), 7.3 percent of the central committee of the Rastriya Prajatantra Party (RPP) and 7.1 percent of the central committee of the Communist Party of Nepal (Unified Marxist-Leninist) (CPN-UML).

Figure 15 shows that in local government, where it is mandated that one of the five Ward Committee members and 20 percent of the Municipality
members be women, representation by women is good. However, in the more powerful VDC and DDC Committees, women’s representation after the 1997 local election was only around seven percent and in the District and Village Councils – where local policy and budget allocation decisions are made – women’s representation fell to around three percent. Women make up only about seven percent of the civil service and fewer than one percent of the officers at the First Class level and above. Their representation in the executive and judiciary is even lower.

**Dalit, Janajati and Madhesi participation in governance**

During the Panchayat period and the first 10 years of multiparty democracy Brahmans and Chhetris were able to maintain around 60 percent presence in the legislature, and Newars just below 10 percent. (See Figure 16.) Janajati and Madhesi presence is limited, and does not accord with their proportion in the population. Dalits, moreover, were almost entirely absent from parliament and only had one representative during the entire multiparty period. Given their dominance in the legislature, it is not surprising that men from the Brahman/Chhetri group also held the lion’s share of cabinet appointments. Their dominance in the civil service also increased from 70 to 90 percent between 1985 and 2002. The leadership of the civil service has been dominated by Hill Brahmans, Chhetris and Newars: all 19 of the Cabinet Secretaries since 1951 have been from this group. Similarly, out of the 21 people
appointed as Vice-chairpersons of the National Planning Commission during this period, there has been only one Janajati and all the rest have been either Brahmans, Chhetris or Newars of Hill origin (Yadav 2005).

Perhaps more telling is to consider who actually ran for public office. Figure 17 shows data from the election held in 1999. About 75 percent of candidates who contested were not affiliated with any of the three major parties. While the three main political parties (dominated by B/C males) may have chosen not to field many women, Janajati or Dalit candidates, these groups themselves expressed their need to exercise their democratic rights and felt empowered to do so. These candidates either ran as “independents” or as members of small, locally-based or special interest parties. Among women candidates this number is about 70 percent, among Janajati candidates it is over 80 percent and among Dalits, over 95 percent. Women and caste and ethnic minorities obviously want to be part of the democratic political process. While their success in the past elections was limited, as democracy takes root the experience gained during these early forays will be valuable.

Applicants to civil service positions are also overwhelmingly (83%) Brahman/Chhetri. Candidates from this group are more than twice as likely to be chosen as Newars, nearly three times more likely than a Janajati candidate and over four times more likely than a Dalit candidate. The pattern extends to the judiciary where the B/C and Newar groups hold virtually all positions.

**Local power relations and poverty**

In addition to its analysis of the national level poverty data, the GSEA commissioned a separate in-depth study on Measuring Empowerment and Social Inclusion (MESI) (Bennett and Gajurel et al, 2006) to analyse the material, social and political status of the relatively privileged Brahman, Chhetri and Newar (BCN) groups and the Tarai Middle Castes compared to the Janajati groups and the Dalits in rural Nepal. Using both qualitative and quantitative data, the study documents how the various types and levels of exclusion shown in Figure 5 play out in real life. (See Box 6.)

**Who are the poor?**

Overall, the patterns on economic indicators that emerged from the MESI field data ground truth those reported in the national level data sets reviewed above. The Janajatis and the Tarai Middle Caste groups tied for second place on a composite wealth ranking score. The Brahman/Chhetri/
The Measuring Empowerment and Social Inclusion (MESI) study attempted to understand the experiences of people living within the existing social institutions of caste, ethnicity and gender, and the effects of these institutions on their self-perceptions, day-to-day social interactions and their ability to exercise agency. It used both quantitative and qualitative techniques to try to understand, measure and analyse empowerment and social inclusion – what blocks it and what enhances it. In other words, it was an effort to explore what the rather abstract concepts of empowerment and social inclusion meant to people in real life. The MESI sample comprised of one man and one woman from 1,000 households in 60 villages. Twenty were villages where the Rural Water Supply and Sanitation (RWSS) interventions had been completed, 20 were where the RWSS was just beginning and 20 were control villages. These 60 villages were neither the most prosperous nor the poorest and therefore represented communities that were generally representative of the majority of the rural population. Research included a six-week qualitative study in four of the sample villages. The indicators used to measure levels of empowerment (EMI) and social inclusion (SII) are shown below.

The EMI and SII indices were combined to form the Composite Empowerment and Inclusion Index (CEI).

**Indicators used in the Empowerment Index (EMI)**

1. **Knowledge/awareness of rights and procedures**  
   - Understanding of police procedures  
   - Understanding of court procedures  
   - Knowledge of the Country Code and rights of Dalits  
   - Knowledge of local services

2. **Participation in local development services**  
   - Seeking local services  
   - Participation in programmes of child’s school

3. **Confidence/comfort level in accessing services/exercising rights**  
   - Approaching the police  
   - Approaching the courts  
   - Approaching children’s school

4. **Social networks (economic and political)**  
   - Connections for getting a job for oneself  
   - Ability to help others get a job  
   - Connections at ward level  
   - Connections to local service agencies  
   - Connections at VDC level  
   - Connections at DDC level

5. **Efforts to Influence**  
   - Suggestions/complaints at ward level  
   - Suggestions/complaints at VDC level  
   - Suggestions/complaints at DDC level  
   - Advice to school officials

**Indicators used in the Social Inclusion Index (SII)**

1. **Self-perceived status of own caste/ethnic group**  
   - Relative economic status/success of own group  
   - Relative contentment/comfort with social status of own group  
   - Respectful treatment  
   - Relative access to opportunity  
   - Cooperation from other groups  
   - Respect in the community

2. **Restricted access & public intimidation**  
   - Whether the respondent is restricted from entry into certain public areas (like temples or peoples’ homes) and/or prevented from using public facilities (like water taps).  
   - Whether the respondent faces verbal or physical intimidation/humiliation/violence in public spaces such as the village and/or in the nearest bazaar.

3. **Effectiveness of local political influence**  
   - Result of complaints/suggestions they have made at ward/village/DDC level.

4. **Effectiveness in getting services and opportunities**  
   - Invited by agencies to participate  
   - Promptness of service  
   - Consulted for opinion  
   - Access to training opportunities
Newar households are well on the top (by more than 1.3 times) and the Dalits are at the bottom. The Janajatis are intermediate between the two groups and are closer to the BCN group in some measures of livelihood empowerment (such as land size), but closer to Dalits with respect to other measures (such as household consumption goods).

However, for policy making purposes it is also important to note a pattern that appeared in several of our wealth ranking measures. For example, Figure 18 shows the distribution between four different levels of consumption goods ownership for each group. The BCN group has the largest concentration in the top category while Dalits have the lowest. But the same figure shows that there is not a great deal of difference between the caste and ethnic groups when it comes to the proportion of each group who are in the “lower medium” or second poorest category. For all groups this “lower medium or middle poor” group is the largest cohort, containing over 45 percent of the whole population. The Janajatis had the highest proportion of their members in this group (about 48%), but the BCN group also had about 42
percent. These findings are similar to the national level data sets and caution once again against any easy equation between caste/ethnic identity and economic status. It is important to keep in mind the reality that there are many poor Brahmans and Chhetris in rural Nepal.

Our qualitative research confirmed the quantitative findings about the economic dominance of the BCN group. However, it also revealed some different perspectives on poverty and alerted us to the economic issues that people are most concerned about. None of the four communities where the qualitative research was conducted seem to experience severe seasonal shortages of food, although one community reported that food shortages were a regular occurrence before an irrigation project came to the area. With the possible exception of a few of the very poorest households, the concern of most people is not subsistence, but rather better opportunities to earn cash income. Despite the importance of land ownership for security and status (Box 7), many of our informants felt that agricultural work (on their own land) is inferior to wage work (agricultural or otherwise) because it is physically demanding and brings minimal rewards. This was a surprise since agricultural wage work carries little prestige and has usually been considered a last resort. Both men and women spoke about the lack of wage labour and other kinds of employment in their areas as a major concern for themselves and for their children.

For many Dalits and Janajatis, particularly lower status Janajatis, such as the Kumal - who formed a large proportion of one of our case study vil-

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**BOX 7 Listening to rural people during the MESI study**

**On restrictions for Dalits to enter certain spaces:** When asked if she had entered the homes of high caste people in her village, a Dalit woman in Tanahu district laughed, “Not once! I’ve watched functions of high-caste families from outside their windows.”

**On self-perception of own caste:** A Dalit man commented, “Sometimes I hate my caste, because people hate us because of our caste. My caste is a barrier to progress. Once in Class Nine, my teacher asked, ‘What do you have in your tiffin [lunchbox]. Is it the flesh of a dead animal?’ I complained to my headmaster, but he too, harassed me.”

**On the aspirations for the future:** “To be listened to” commented a Dalit woman in the Dibya Nagar scheme, in Nawal Parasi, “we need more education or more money and power. If I ever had a chance to lead, I could not, as I am not educated and have never performed such duties. I think people would never listen to me due to my caste.”

**On changing attitudes towards Dalits:** In Jamune one old Brahman woman stated that there was no discrimination between men and women in her village and no touchability or untouchability. “I am old, so I do not want to eat food touched by Dalits. But I have never restricted my son or his children from taking food from Dalits or going into their houses,” she noted.
lages - lack of income earning opportunities was a serious issue. More and more poor people in Nepal perceive the lack of opportunities to earn cash income as the greatest constraint. This was cited as a reason for removing children from school and for not being able to send a family member overseas for employment. Lack of income prevented some from seeking health care and from benefiting from development interventions, including the opportunity to attend training. Lack of income also prevented some from taking out loans because, in spite of the ubiquity of savings and credit groups, membership generally depends on being able to meet the group’s agreed level of weekly cash contributions to the saving pool.

“Time” as an asset is seen as closely related with material well-being. “Time poverty” is a common problem, particularly for women, but also for men in asset-poor households. Women often complained that they could not participate in training opportunities or attend various meetings because of a shortage of time (usually a result of their many household responsibilities). Household wealth was found to be an important determinant for group membership (for both men and women). Respondents from wealthy households were over seven times more likely to belong to a group than those from poor households. In poor households, the struggle to bring in enough food and to earn enough income not only meant that household members were unable to become involved in community activities, but in many cases also that children were needed to assist in the daily chores and could not attend school.

Empowerment and inclusion results The criteria used by the MESI study for the Empowerment Index (EMI) to measure empowerment, and for the Social Inclusion Index (SII) to measure social inclusion, are shown in Box 6. The results of the Composite Empowerment and Social Inclusion Index (CEI), which combines the EMI and the SII, are shown in Figure 19. According to the findings of the MESI study:

- The ranking of social groups in the CEI broadly reflects the traditional caste hierarchy: The CEI levels of the Brahman/Chhetri/Newar group (46) were significantly higher than those for Janajatis (36), who in turn scored higher than Dalits (25).
- For separate indicators such as knowledge of rights and procedures, confidence/comfort level in accessing services and exercising rights, social
networks, local political influence and efforts to influence, BCN scores were consistently around twice as high as those of Dalits.

- For the indicator on restrictions and intimidation in public space, the study found that 90 percent of BCN group never experienced any restriction or intimidation. Those from this group who had encountered spatial restrictions faced them only on a temporary basis during ritual pollution due to death in the family or (for women) menstruation or childbirth. For Dalits, ritual pollution and spatial restriction is not a temporary state, but a permanent part of their social identity. All Dalit respondents reported having experienced some degree of restriction on entering certain public spaces and public intimidation/harassment, and about 20 percent experienced high levels of restriction and intimidation/harassment.

- In all social groups, men consistently have higher CEI scores than women. Looking at just a few of the specific indicators we find:
  - Participation in local development services: men participate in/take advantage of local development services 1.6 times more often than women.
  - Efforts to influence: Men try to influence the institutions that are supposed to deliver services to them 2.7 times more than women.
Effective local political influence: Men are 4.8 times more able to actually influence their institutional environment than are women.

When only female scores are examined, the caste hierarchy re-appears with Brahman/Chhetri and Newar women scoring much higher than Dalit or Janajati women. This is a surprising reversal from only 25 years ago when the opposite was found to be true (Acharya and Bennett 1981). Caste/ethnic identity plays a role, but education and membership in local groups can tip the balance and can affect the degree to which rural women have been empowered and included in community-level development activities.

Many poor Dalit and disadvantaged Janajati women have little time to spare for group activities that benefit other women.

Even when they are able to join various types of groups, their voices are often muted by the more confident and highly educated BCN women unless special efforts are made to ensure that they participate in the governance of the group.

The relationship between caste and gender is complex. Women in all caste and ethnic groups score lower on both empowerment and inclusion than men in their own groups. However, Brahman women are significantly more empowered than Dalit men – and in terms of inclusion, women from all other groups score higher than Dalit men. Dalit women who experience both gender and caste discrimination have the lowest levels of empowerment and inclusion scores of any group. The mean CEI score for BCN men is more than double the mean CEI index for Dalit women.

The study also tried to determine the major factors influencing levels of empowerment and social inclusion and the regression results showed that:

Caste/ethnic identity and gender together explained 33 percent of the variation in the CEI index.

Caste/ethnic identity is a more powerful predictor of empowerment/inclusion than gender; it explained 26 percent of the variation in CEI scores while gender explained only 7 percent.

Being a member of a local development group was associated with a five percent increase in CEI levels.

Ten years of education was associated with a 19 percent increase in CEI levels.

Contact with the local Women Development Office, holding office in a group and exposure to media were also significantly positively associated with higher CEI scores.
CHAPTER 3

LEGAL EXCLUSION
LEGAL EXCLUSION
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The current international understanding of the human right to equal treatment does not allow discrimination based on gender, caste or ethnicity. Unfortunately, cultural practices and even some laws in Nepal still discriminate on the basis of sex, caste, ethnicity and religion. Other laws aimed at protecting people from discrimination have been weakly implemented. It is clear that even the best-designed legal provisions cannot on their own end the exclusion some citizens face because of their gender, caste or ethnicity. Deep-rooted values and discriminatory attitudes often lead to poor implementation of laws. The challenges, therefore, are not only amending laws but also changing the mindset of people, and formal and informal institutional mechanisms that perpetuate discrimination.

The Muluki Ain, the Country Code (1854), first formalised the caste system into law. Most of the penal provisions in the Country Code reflected the caste hierarchy, i.e. the lower the caste, the higher the degree of punishment for the same offence. The law also reproduced the patriarchal view of women as properly subordinate to men and economically dependent on them. A new provision prohibiting discrimination on the basis of caste and ethnicity was inserted in the 1963 Country Code but it came with ambiguity in the form of a provision protecting “traditional practices”. Moreover, Nepal has not yet signed the International Labour Organization (ILO) Convention No. 169, the international instrument that deals specifically with the rights of indigenous and tribal people.

The lack of laws is not the issue in Nepal. The Constitution and the Civil Rights Act of 1955 prohibit discrimination against any citizen on the grounds of “religion, race, sex, caste, tribe, ideological conviction or any of these”. The laws also prohibit untouchability, denial of access to any public place or depriving someone of the use of public utilities. But enforcement is lax. For example, even as recently as 2005, several Dalits in Saptari District were made to pay a heavy fine for entering certain temples – purportedly to cover the cost of “purifying” the areas they had “defiled”. Those who could not pay were forced to leave the district. Although this incident was reported by the national press, those who levied the fine were not prosecuted. In addition, and particularly as noted earlier with regard to obtaining citizenship papers (see Box 2), many ad hoc discriminatory administrative practices still prevail against certain communities – such as Madhesis, people who live in the flat Tarai belt adjacent to India and share...
many linguistic and cultural characteristics with them. Many laws enforcing outright discrimination also remain to be amended.

The law denies women equal inheritance rights. The 11th Amendment to the Country Code recognises daughters as joint-heirs (*ansiyars*) to family property and partly secures women’s right to ancestral property. However, daughters must return their share of the family property to the family when they marry. In the case of intestate property, daughters fall below sons in the line of succession and married daughters fall even farther below.

Sexual exploitation is also not addressed properly. While the Constitution prohibits “traffic in human beings, slavery, and serfdom or forced labour,” the law on trafficking is neither comprehensive nor sensitive to human rights issues. Moreover, it exempts buyers from legal jurisdiction as the “purchase” of a human being is not considered an offence. In addition, the present laws are inadequate to deal with sexual offences. Several problems are found with the laws on rape, and Nepal has no law to deal with sexual harassment.

Discriminatory provisions based on caste, ethnicity and religion include the Constitutional declaration of Nepal as a Hindu kingdom, and of Nepali as the only official language. Box 10 below sets out some of the other laws that support continued discrimination on the basis of religion, caste and ethnicity.

Overall, the laws discriminate against women in the areas of citizenship, property, education, employment, health, sexual offences, marriage and family relations, court proceedings and identity. Nepali women are unable to confer citizenship on their children or husbands; and their identity as a mother and/or wife is also not legally recognised for official purposes, since official forms require the name of the father. Box 11 lists some of the discriminatory legislation. Progress is being made, however. Some of this legislation is under challenge, and, as noted in the box, recent Supreme Court rulings have declared certain provisions unconstitutional.

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**BOX 8** Non-discrimination and equality

Existing legislation in Nepal has failed to distinguish between non-discrimination and equality. Non-discrimination prohibits discrimination, but may not be able to bring equality as a result. Gender neutral law promotes a “sameness” approach but does not take socially constructed gender gaps into consideration. In addition, the present legal framework has not been able to prohibit discrimination on the basis of origin or language.

**BOX 9** Discriminatory laws

While the CEDAW Committee recommended that Nepal change 85 laws and 137 legal provisions that discriminated against women, an analysis of Nepali laws, including the Constitution and Country Code, conducted for the GSEA found 32 provisions that discriminate on the basis of religion, caste and ethnicity, and 176 provisions in 83 pieces of legislation that discriminate against women (Malla and Shrestha 2005).
## Box 10: Examples of discriminatory laws based on religion, caste and ethnicity

<table>
<thead>
<tr>
<th>Provision</th>
<th>Discrimination against</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nepal is a multiethnic, multilingual, democratic, independent, indivisible, sovereign, Hindu and Constitutional Monarchical Kingdom. - Article 4 (1) of the Constitution of Kingdom of Nepal (1990)</td>
<td>Non-Hindus By declaring Nepal a Hindu Kingdom, the Constitution itself privileges Hinduism over religions, which account for at least 20% of the population.</td>
</tr>
<tr>
<td>…punishments shall not be more or less merely based on people’s higher or lower status…… - Preamble of the Country Code (1963)</td>
<td>All but “High Caste” males The Country Code recognises people’s higher or lower status, even though the intention is for equality in punishments.</td>
</tr>
<tr>
<td>The Nepali language in the Devnagari script is the language of the nation of Nepal. The Nepali language shall be the official language. - Article 6(1) of the Constitution of Kingdom of Nepal (1990)</td>
<td>Janajatis &amp; linguistic minorities Ethnic languages are not recognised as “official languages of the nation”.</td>
</tr>
<tr>
<td>Each community shall have the right to operate schools up to the primary level in its own mother tongue for imparting education to its children. - Article 18(2) of the Constitution of Kingdom of Nepal (1990) and Section 7(1) of Education Act (1972)</td>
<td>Janajatis &amp; linguistic minorities The Constitution itself permits education in the mother tongue only up to the primary level. Moreover, it does not commit the state to fund such schools.</td>
</tr>
<tr>
<td>(No person) shall deliberately slaughter cows or bullocks, or instigate others to slaughter, or attempt to slaughter, or take cows and bullocks to foreign countries with the intention of slaughtering them, or take them to foreign countries and kill them. - No 1 of Chapter on Quadrupeds of the Country Code (1963)</td>
<td>Janajatis, Dalits Muslims and other religious minorities who do not perceive cow slaughter to be a crime Cow slaughter is an offence punishable by up to 12 years of imprisonment.</td>
</tr>
<tr>
<td>In case any person is found to be raising a weapon or doing anything else with an intention to slaughter cows or bullocks, he/she shall be prohibited from slaughtering them. In case he/she refuses and uses weapons against the person prohibiting him/her, the latter shall not be deemed to have committed an offence if he/she attacks the slaughterer and if he/she acts or strikes at (the would be slaughterer) and kills him/her… - No 4 of Chapter on Quadrupeds of the Country Code (1963)</td>
<td>Janajatis, Dalits, Muslims and other religious minorities who do not perceive cow slaughter to be a crime Killing a human being is justified for the protection of cows and bullocks.</td>
</tr>
<tr>
<td>Whoever takes cows, bulls, bullocks or calves of any category to a foreign territory from Nepal and slaughters them, or causes them to be slaughtered, he/she shall be liable to a punishment of imprisonment for 6 years. - No 10 of Chapter on Quadrupeds of the Country Code (1963)</td>
<td>Janajatis, Dalits, Muslims &amp; other religious minorities who do not perceive cow slaughter to be a crime Extra-territorial jurisdiction is created for cow slaughter.</td>
</tr>
<tr>
<td>Kipat (common communal property) lands which lack official documents, are equivalent to Raikar, lands on which taxes can be levied. - No 1 of Chapter on Land Evictions of the Country Code (1963)</td>
<td>Janajatis This has led to the loss of ethnic based communal (Kipat) ownership as Raiker can be used, transferred, and disposed of by anyone.</td>
</tr>
<tr>
<td>Kipat land can be registered as tax levied land (Raikar) by means of deed. - Section 3(1) of the Land Reformation Act, (1964)</td>
<td>Janajatis Same as above as the restriction on selling such land is withdrawn.</td>
</tr>
<tr>
<td>Anyone who desires to enter an ancient historic, artistic or important religious place, whether owned by the government or by a private person, may do so if this does not disrupt a traditional custom that has been practiced for a long period. - Section 10 of the Ancient Monument Protection Act, (1956)</td>
<td>Dalits Dalits are excluded on the basis of this provision, as it states one may enter religious places only if long-standing custom is not disturbed.</td>
</tr>
<tr>
<td>No one shall disrupt social customs fraudulently or coercively or commit or cause any such act to be committed. Whoever commits, or causes another to commit such an act is liable to a punishment of imprisonment up to one year or a fine up to one thousand rupees. - No 10 of Chapter on Miscellaneous Provisions of the Country Code (1963)</td>
<td>Dalits Dalits are excluded from temples and other public places on the basis of this provision as it protects social customs that are being practiced.</td>
</tr>
<tr>
<td>Name of the legislation</td>
<td>Discrimination</td>
</tr>
<tr>
<td>-------------------------</td>
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<tr>
<td>Article 9 (1) and 9(2) of the Constitution of the Kingdom of Nepal, 1990</td>
<td>Women cannot provide citizenship to their children.</td>
</tr>
<tr>
<td>Article 9 (5) of the Constitution of the Kingdom of Nepal, 1990</td>
<td>Women cannot provide citizenship to their spouse.</td>
</tr>
<tr>
<td>Annex/Schedule (2)&amp;(4) of the Nepal Citizenship Rules, 1992</td>
<td>Citizenship certificate only states father's or husband's name.</td>
</tr>
<tr>
<td>Application forms of the Passport Rules (1970)</td>
<td>Women require their guardian’s or husband’s approval to obtain a passport.</td>
</tr>
<tr>
<td><strong>THIS PROVISION WAS RECENTLY STRUCK DOWN</strong></td>
<td></td>
</tr>
<tr>
<td>No. 1A of the Country Code, 1963 - Partition</td>
<td>Married daughters are not considered as coparceners in the ancestral estates.</td>
</tr>
<tr>
<td>No. 16 of the Country Code, 1963 - Partition</td>
<td>Unmarried daughters must return their share of parental property upon marriage.</td>
</tr>
<tr>
<td>No.19 (1) of the Country Code, 1963 - Partition</td>
<td>Consent of married daughters is not required to dispose of more than half of the immovable family property.</td>
</tr>
<tr>
<td>No. 2 of the Country Code, 1963 - Women's Exclusive Property</td>
<td>Women require consent to dispose of more than half of the immovable family property.</td>
</tr>
<tr>
<td><strong>THIS PROVISION WAS RECENTLY STRUCK DOWN</strong></td>
<td></td>
</tr>
<tr>
<td>No. 7 of the Country Code, 1963 - Women's Exclusive Property</td>
<td>Women are restricted from freely using their own share of inherited property.</td>
</tr>
<tr>
<td>No. 1 of the Country Code, 1963 - Intestate Property</td>
<td>Definition of <em>Hakwala</em> (owner) includes seven generations on the male side.</td>
</tr>
<tr>
<td>No. 2, 3, 6, 7, 9, 10, 12 of the Country Code, 1963 - Intestate Property</td>
<td>Married daughters fall behind in the line of succession of intestate property.</td>
</tr>
<tr>
<td>Section 26(1) of the Land Act, 1964</td>
<td>Tenancy right is transferable only to an unmarried daughter after she attains the age of 35 years.</td>
</tr>
<tr>
<td>Section 38 of the Insurance Act, 1992</td>
<td>Married daughters are excluded from the line of succession.</td>
</tr>
<tr>
<td>Section 15 (a) (1) of the Employees Provident Fund Act, 1962</td>
<td>Married daughters fall behind in the line of succession to receive/claim provident fund.</td>
</tr>
<tr>
<td>Section 23(1) of the Pension Act, 1986</td>
<td>Married daughters fall behind in the line of succession to receive/claim bank deposit.</td>
</tr>
<tr>
<td>No. 10 of the Country Code, 1963 - Rape</td>
<td>The rape of a married woman technically creates an end of the family relation, because the husband is considered as an ex-husband by law.</td>
</tr>
<tr>
<td>Section 10 of the Army Act, 1959</td>
<td>Women in the Army can serve only in non-combatant roles.</td>
</tr>
<tr>
<td>Section 12 of the Foreign Employment Act 1985</td>
<td>Permission of the guardian and the government is a prerequisite for women to go abroad for employment.</td>
</tr>
<tr>
<td>No.28, 28(a), 32 of the Country Code, 1963 - Homicide</td>
<td>Higher punishment is provided for a woman undertaking an abortion than for third parties whose actions cause an abortion.</td>
</tr>
<tr>
<td>No. 1(1) of the Country Code, 1963 - Husband and Wife</td>
<td>Grounds for divorce are not the same for men and women.</td>
</tr>
<tr>
<td>2 &amp; 2(a)Country Code, 1963 - Adoption</td>
<td>Women face additional restrictions in adopting a child.</td>
</tr>
<tr>
<td>No. 9 of the Country Code, 1963 - Marriage</td>
<td>The law appears to encourage bigamy as a second marriage is permitted under certain conditions without divorcing the first wife.</td>
</tr>
<tr>
<td>No. 3(1) of the Children's Act 1991</td>
<td>Father has priority over mother in naming a child.</td>
</tr>
<tr>
<td>Section 31 of the Revenue Tribunal Rules, 1974</td>
<td>Court dress is specified for male judges only.</td>
</tr>
</tbody>
</table>