GENDER, CASTE AND ETHNIC EXCLUSION IN NEPAL:  
FOLLOWING THE POLICY PROCESS FROM ANALYSIS TO ACTION

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Abstract: This paper builds on the Nepal Gender and Social Exclusion Assessment (GSEA), a collaborative policy research study undertaken by World Bank and DFID. The paper examines the GSEA – which will be followed by further joint work supported by a three year DFID Social Exclusion Action Programme (SEAP) – as an on-going effort to influence the formal policy making process and the messier, longer term process of supporting the implementation of these policies and trying to make them a reality on the ground. It confronts the fact that policy reform, if it takes hold, is actually culture change – especially when the policy issue examined is how to overcome the persistent legacy of caste, ethnic and gender-base exclusion.

The paper is divided into four parts. The first briefly presents the historical background of exclusion in Nepal and the conceptual framework used in the study. The second part presents the main findings of the GSEA research – including poverty outcomes by gender, caste and ethnicity, an analysis of government and civil society responses to gender, caste and ethnic discrimination, a review of legal issues, access to health and education, an analysis of group based approaches and efforts to evolve an affirmative action policy. Part three offers the GSEA key policy recommendations and the final part looks ahead to the next stage of the GSEA process. It examines some of the considerations that must be taken into account by the GSEA team as it moves more fully from policy analysis to supporting the Nepalis in government and civil society who want to make Nepal a more inclusive state – and trying to influence those who do not.

Keywords: social exclusion, caste, ethnicity, gender, institutional analysis, Nepal

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Policy making is often a process of institution building and institutional change.

John L. Campbell (2004:92)

Part I: Background and Conceptual Framework

Introduction

This paper examines an ongoing effort to influence the formal policy making process and the messier, longer term process of supporting the implementation of these policies and trying to make them a reality on the ground. It confronts the fact that, although “policy reform” sounds very technocratic, if it really takes hold, policy reform is part of the deeper and more mysterious process of social and institutional change. The shape that such reforms actually take is invariably influenced by local contexts and by the creativity of individuals – be they blockers or champions of the reform in question. For these reasons the actual outcomes produced by policy reforms are often far less predictable than we like to admit. Successful policy reform must address not just the formal rules and procedures that are written down and enforced by law, but also the thicket of informal behaviours and deep-seated norms and values and networks of political alliances and obligations that stand between the formal policy statement and its actual implementation.

On the ground the process of policy/social change looks less like a linear progression to a logically formulated series of “public policy choices” and more like a kind of self-organizing chaos. It seems to be a process through which many different individual change entrepreneurs and stakeholder groups come to realize that something in the current institutional configuration needs to be changed. This realization can come either as a result of increasingly apparent internal contradictions or through external economic, political or ideological “shocks” – or some combination of these. In a process that Campbell (2004) calls “bricolage”, these change entrepreneurs draw upon the existing stock of institutional logics or “rules of the game” that are locally available or sometimes brought in from elsewhere. They put these pieces together in a new way to create/negotiate new rules of the game that better suit their interests and values. The process of negotiation involves not only being able to make an effective “case” for change on the cognitive and normative level to the general public, but also understanding the prevailing configuration of power – whose interests will be threatened by the change and whose might possibly be served. A critical aspect of the policy reform process is being able to forge pragmatic alliances by linking the new institutional logic with the interests of those who are in a position to
actually implement the logic.

The context for the exploration of this process presented in this paper is contemporary Nepal, a fledgling democracy and one of the poorest countries in the world caught in the midst of a Maoist insurgency on the one hand and a royal coup on the other with the king apparently convinced that reinstating absolute monarchy is the means to peace and stability. On the third point of the triangle are the democratic parties who sadly, seem too caught up in their own quest for power and spoils to provide a legitimate and viable alternative to the two totalitarian extremes on the left and the right.

The particular policy issue examined here is how to overcome the persistent legacy of interconnected caste, ethnic and gender-based exclusions. While the major impetus for this kind of social change comes from individuals and groups who have themselves been excluded, there is also an important group in the civil service who are behind this change. Even though as ‘high caste’ males, they are part of the current configuration of power, they are supporting policy change at least in part because they see themselves as champions of ‘economic reform’. First and foremost, they see these exclusions as a block to poverty reduction and economic growth – and also as one of the reasons the insurgency has gained such momentum across the countryside. For them ‘economic reform’ is more than the enactment of a particular set of economic policies. It stands in opposition to the patronage-based system of governance that has marked Nepal’s past and connotes the modern rule-based state they seek to create. In addition many of these same elite reform champions – along with many ordinary urban and rural Nepalis from all walks of life – also see the fact of caste, ethnic and gender exclusion from a more personal perspective as something that no longer fits their changing view of social justice and their wish to be citizens in a democratic polity rather than subjects in a feudal system.

There is in fact, much ethnographic and textual evidence that caste, ethnic and gender exclusions have never been “comfortable” for Nepalis – even for high caste males who have benefited from them. Parish (1997) and Bennett (1983) have shown that both ‘high’ and ‘low’ castes and men and women have always on some level, been aware of the internal contradictions in the hierarchical logic of caste, ethnic and gender relations. While accepting them on one level, they have been troubled and even angered or embittered by these institutions. Indeed, from this perspective, much of Hindu philosophy, myth, and ritual practice can be read as efforts to confront, resolve or soothe the “discontents” inherent to these hierarchal relationships and to
reconcile them with the other more egalitarian strands of Hindu thought and the growing influence of democratic ideas.

This paper tries to deal with the fact that policy reform is culture change and to explore what that means for policy analysis and for supporting the policy process beyond analysis to implementation. In doing so however, the author must also deal with the fact that she and the international development agencies that supported her and her team to engage with this process are all “outsiders” in Nepali society. The real actors in this policy change process are the Nepalese and they have an arsenal of direct actions (or at least they did until democracy was suspended) which they as citizens can take that are not available to non-Nepali actors. Thus, very few of the priority actions set out in Part III of this paper to implement the recommended changes can be taken by the agencies sponsoring the analysis. Yes, a development agency can make funds and other resources available to government or civil society actors who want to change things; but as to the way these resources are actually used, external agencies are limited to the classic tools of voice and exit. As outsiders both the analyst and the development agency must acknowledge that their reform/change efforts are only minor contributions seeking to influence a process that is well beyond their control.

**Background on the Nepal Gender and Social Exclusion Assessment**

The Nepal Gender and Social Exclusion Assessment (GSEA) has been a collaborative effort of the Department for International Development (DFID) and the World Bank. DFID met part of the costs for a World Bank Lead Social Scientist to work in collaboration with the National Planning Commission to frame the issue and form the assessment team. The NPC appointed an Advisory Group to review and guide the assessment. Additionally, DFID, the World Bank and the Danish government-supported a series of studies, including primary research\(^1\), carried out by a team of primarily Nepali scholars and analysts. As the results of these studies emerged, they have been submitted for discussion and review by stakeholders from each of the excluded groups and policy makers 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

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\(^1\) The primary research on Measuring Empowerment and Social Exclusion (MESI) was supported by the Government of Norway through the TFESSD Poverty Window and Norway and Netherlands through the
socially-defined identity. It reports on how the state and civil society institutions are responding to changes taking place in Nepal and recommends strategies and actions to promote progress towards a more inclusive and equitable society. It was envisioned, researched and written from late 2002 to mid 2005 and comes in 15 chapters divided into four parts—Framing the Issue, Tracing Exclusion, Responding to Exclusion and Towards an Inclusive Nepal. The summary report entitled Unequal Citizens: Gender, Caste and Ethnic Exclusion in Nepal will be published in January 2006.

The Nepal Context

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 also failed to be inclusive mainly because political parties were unable or unwilling to represent and articulate the demands of less powerful Nepalis. Those left out at the margins were women, the formerly ‘untouchable’ castes who now call themselves Dalits (‘oppressed’, ‘broken’ or ‘crushed’), and the ‘tribal’, indigenous ethnic groups, the Adivasi Janajatis or ‘indigenous nationalities’.

The inability of the polity to be inclusive, in a context defined by deeply entrenched and mutually reinforcing feudal, caste and patriarchal institutions, led to the radicalisation of the demands of those who felt neglected by the new political order. 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 on-going social change, they were able to provide important symbolic recognition to disaffected women, Dalits and Janajatis and bring their demands into public debate. The Communist Party of Nepal (Maoist) launched its ‘People’s War’ in February 1996 and has capitalised on the persisting caste, ethnic and gender-based disparities.

Social exclusion gained prominence in public discourse after it was included as one of four pillars of the 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 define and assure citizenship rights to all—and not welfare-handouts. 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 responsibility complement each other. Therefore, attaining the PRSP’s inclusion goal requires fundamental shifts in governance structure and economic opportunity as well as in the underlying hierarchical norms, values and behaviours.

Nepal’s geography also contributes to exclusion. There are urban/rural differences in access to markets, services and information. Another location-specific exclusion that reflects a constructed difference is the distinction between the Parbatiya (Hill dweller) and Madhesi (plains dweller).

Nepali history exemplifies how economic, political and ideological/cultural institutions can reinforce each other to sustain certain configurations of exclusive power. In Nepal power was consolidated by interlinking it with the Hindu caste system, which, though diluted, remains even today. The social order was exclusionary because it classified all groups as distinct castes within the broad framework of the Hindu system of the four varnas based on concepts of ritual purity and pollution. The priestly Brahmans were at the top with the Kshatriya (kings and warriors) just beneath them; next came the Vaishya (merchants) and the Sudra (peasants and labourers). Beneath everyone were occupational groups, considered ‘impure’, and ‘untouchable’ or achut who 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 Caucasian 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 shamnist/animist religions. The matwalis comprise the Adivasi Janajatis (indigenous nationalities). The Muluki Ain or Country Code (1854) accorded differential privileges and obligations to each caste and sub-caste.

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 (1846-1951), the Nepali 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 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 the king, Nepalis were for the first time beginning to think of themselves as citizens rather than subjects. Nepal abolished caste-based discrimination in 1963. But the diversity of languages, gender, kinship systems and spiritual outlooks were framed as barriers to development that ‘had’ to be merged into a 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 had risen 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 Statute also gave all communities the right to preserve and promote their languages, scripts and cultures, to educate children in their mother tongues, and to practise their own religion. However, it also retained some contradictions and ambiguities such as declaring Nepal a Hindu Kingdom, not allowing women to pass citizenship to their children and explicitly protecting ‘traditional practices’ which has left room for continuation of caste-based discrimination.

Democratic Nepal allowed space for another major development—the growth of civil society organisations, especially those based on ethnic and caste identity. The post-1990 period also 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 displace those like ‘tribal’, Matwali and ‘sano jat’ (‘small’ caste) that had been used to describe ethnic and ‘low caste’ groups. However, many hierarchical institutions, especially the powerful informal networks, behavioural norms and expectations remained unchanged. The unitary, centralised and non-inclusive state structure also remained largely unchallenged.

On February 1, 2005 the King began ruling directly, as chair of the council of ministers. Some new institutions reporting directly to the King have been created, strong controls have been placed on the media and civil society organizations and there is widespread sense that constitutionally guaranteed freedoms are under threat. The parliamentary parties have continued to protest against direct rule and demand restoration of irreversible democracy. Nepal’s efforts to
change the lives of the poor and excluded remain caught up in uncertainty resulting from the unresolved three-way 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 the most marginalised populations, mainly women, Dalits and Janajatis.

**Gender, caste and ethnicity-based social exclusion: A framework for analysis and action.**

This section sets out the framework for thinking about social change used in the GSEA and in this paper. The framework starts with the relationships between people and the institutions and organizations that shape their life opportunities. The interrelated processes of empowerment and social inclusion are seen as the means of shifting these relationships – and the institutions and organizations that embody them – towards greater equity.

**Empowerment and Social Inclusion**

*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 marginalized by the dominant society. It also has to do with increasing their access to assets, capabilities and voice, and helping them to realize the power they gain from collective action. All of this builds their sense of *agency* or their capacity to act on their own behalf.

Often empowerment approaches work at the grassroots, “from below”, helping diverse groups of poor and socially excluded citizens to organize themselves to improve their livelihoods and to demand broader institutional change. These approaches are most effective when they can be scaled up to stimulate the formation of *coalitions for change* between excluded groups and other better-off citizens who also want a more equitable society – or share other interests with the excluded. The political and economic clout of middle-class voters and consumers make them powerful and indeed, critical allies for poor and socially excluded groups seeking social change.

*Social Inclusion* is used to describe the complementary approach that 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 which gives some individuals and groups more opportunity to realize their agency than others to one where*
the political system and the rule of law support equal agency for all. Sometimes these reforms are reluctantly conceded by entrenched power holders who are forced to do so by economic and political events they can no longer control. But in other cases reforms are 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 social 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 1) Indeed, an important element in successful change processes is the formation of coalitions between different social and economic groups who share at least some common change objectives.

Manifest through changes in informal practice and behaviour as well as through more formal legal and policy change, social inclusion changes the opportunity structure within which individuals and groups seek to exercise their agency. It requires changes in incentives and also improved capacity within state and community organizations so that these organizations can and will respond equitably to the demands of all individuals – regardless of their social identity. In a socially inclusive state, the individual’s identity as a citizen trumps all other identities (e.g. gender, ethnicity, caste or religion) as a basis for claims for state services and commitments (e.g. justice, social service provision, investment in public infrastructure, police protection) through the constitution and legal system.
Societies differ greatly in the extent to which an individual’s access to resources and power are determined by their social identity (in terms of gender, ethnicity, language, religion, etc.) rather than personal characteristics (such as strength, intelligence and willingness to work). In almost all countries there is some degree of variation in access to education and social networks associated with the economic, education and social position of one’s parents, but in some countries, the state tries to mediate these differences to make access more equitable. In such countries individual and group mobility is high. Others – like Nepal – remain deeply hierarchical and those at the bottom of the hierarchy face entrenched economic, political and even spiritual and psychological barriers to access, voice and mobility.

The process of social transformation does not follow a particular sequence. But at some point it seems to require action from “within” the minds of those whom society has placed “below” – as well as action from “above”, from those in a position to change the structure of access. It may not always be the “first step”, but certainly one part of the process of change is the empowerment of marginalized groups. Through empowerment they gain an awareness of their
own agency or capacity to act and (together with allies from amongst the middle class and elites), they mobilize collective action to influence the institutions that affect their lives to make them more inclusive and equitable.

But empowerment alone is not enough. Even after they have been empowered or made aware of their own agency, poor and marginalized social groups, like all citizens, face a set of institutions, policies, norms and systems of meaning and value within which they must act to improve their own welfare. This is the opportunity structure. The institutions that make up the opportunity structure can either be socially inclusive, opening the way for all citizens to participate in and benefit from the economic, political and socio-cultural institutions. Or these institutions can be exclusionary.

**Institutions as culture**

Institutions are critical to equity and prosperity because they establish the distributional rules of the game; they structure access to the assets, capabilities and opportunities that allow people to meet their needs, manage risks and make progress towards achieving their aspirations.

It is important here to clarify how the term “institution” is used in this paper and to make a clear distinction between institutions and organizations. North’s definition of institutions as the “formal rules of the game in a society, or the humanly devised constraints that shape human interaction”\(^2\) is a good starting point. However, the use in this paper places more emphasis on the dimensions of meaning, value and power differentials – and thus would extend the “game” metaphor to address such questions as, why do people play this game? What is the prize for winning? Who sets the rules and who is the referee?

Like North’s concept (which includes “codes of conduct, norms of behaviour and conventions”), the concept of institution used in this paper overlaps to a significant degree with at least certain concepts of culture. The practical and fairly straightforward notion of culture presented by Rao and Walton is useful in understanding culture in relation to development – and it is also closely linked with the concept of institutions used in this paper\(^3\). The authors view culture as “fundamentally about relationality – about the dynamics of relationships between

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individuals within groups, between groups, and between ideas and perspectives”. The authors also understand culture as continually contested and subject to change: “Culture… does not refer to a given set of primordial phenomena permanently embedded within national or religious groups, but to attributes that are constantly in flux, both shaping and being shaped by other aspects of human interaction.”

In most of the world today – and certainly in Nepal – we encounter inequitable institutions. The distributional rules of the game vary for diverse individuals and groups on the basis of their social identity. This may sound discouraging; but our knowledge of the reciprocal relationship between people and their institutions gives us hope. People are born at a certain time and place into the complex web of institutions that not only determine their initial asset endowments, but also shape their thinking and behaviour – and even how they think of themselves and the kind of future they are able to “imagine” for themselves and their children. Yet, these same institutions have themselves been created by people – and are continually contested by other people. The fluidity of the situation is what opens the way for human agency and change.

Many of these overlapping institutions reinforce each other – sometimes in negative ways. However, institutions can also compete with each other for legitimacy and power, thus opening up space for structural change. Individuals and groups who are disadvantaged in some way by the prevailing distributional rules under one institution continually use these competing institutions selectively to negotiate ways to meet their own needs and aspirations. Because they are socially constructed, institutions are dynamic and this means that inequitable distributional rules established by one or even a set of interlocking institutions, can be negotiated and changed.

**Institutions and Identity**

The institutions that shape the opportunity structure within which individuals and groups must act include both formal and informal institutions. Formal institutions have written rules encoded in law and thus are ultimately backed by the power of the state. Thus Nepal’s laws governing marriage, citizenship and inheritance, the policies that structure the public education or health systems, the court system and the regulations that shape the national and local systems of elected government are all formal institutions. The informal institutions include behaviours, values and norms that are deeply embedded in Nepal’s particular social and historical context.
These would include much of what we often refer to as the “socio-cultural context”: the caste system, the various gender systems of different social groups, the overhang of feudal patronage systems that still influence the operation of more formal government organizations and institutions. For Nepali citizen’s many of these institutions, values and norms are tacit or simply “taken for granted” and accepted as the natural way of doing things. For donor agencies seeking to assist the Nepalese government, many of these institutions remain largely invisible because they are difficult for outsiders to read. So even though donors may want to address the inequities embedded in many of these institutions, they often do not understand them well enough to effectively take them into account in the design and implementation of either policy or project level development interventions.

Central to our analysis is the idea that individuals and groups are defined – and define themselves – in terms of multiple layers of institutions that surround them. Exclusion and disempowerment takes place at various levels. One is within the individual and involves internalization 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 they are valued by society and what they can or cannot do. In Nepal, since these institutions have been primarily defined by the dominant male high caste group, they can be very disempowering for an individual woman, Dalit or for a member of a linguistic or religious minority.

Critical sites of empowerment and social inclusion may vary for different categories of marginalised people (See Figure 2). For example, for women, the home 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 – though Dalit women as subordinated in both the gender and the caste domains will encounter discrimination in the home as well as in the community.

What Figure 2 presents is a continuum beginning with the subjective realm of individual self-identity, moving to the family and local informal social norms and behaviours that most directly influence individual identity and outward to the formal and informal institutions of the
wider society and economy and the different levels of the state. In our view, the inner spheres of the continuum are the most relevant to empowerment and to influencing the individual’s sense of agency while the outer spheres of the wider society and state determine the extent to which that agency can be realized or achieved.

Part II: GSEA Findings

Poverty outcomes

The GSEA examined poverty outcomes using indicators of economic wellbeing, human development levels and voice and political influence. Data from national surveys and other secondary sources were used and a field study was also conducted to generate primary data on levels of empowerment and social inclusion. The outcomes were examined for three major excluded groups (women, Janajatis and Dalits), and also for the Tarai Muslims (4% of population), a religious minority with high poverty.
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 comprising less than 0.1 percent of the population. 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 57.5 percent of the population, Janajati 37.2 percent and the religious minorities 4.3 percent. Among the 10 major social groups, the Hill Brahmans and Chhetris (B/C) had the highest numbers (31% of the population), Hill Janajatis, 28.5 percent and the Tarai Middle Caste, 13 percent.

**Economic Poverty: Consumption and Incomes**

The Nepal Living Standards Survey, 2004 (NLSS-II) estimated that 31 percent of Nepalis were under the consumption poverty line. The Tarai B/C group and the Newars have the lowest poverty levels and overall, the Hill B/C, and Tarai middle caste also have relatively low proportions in poverty. In contrast, almost half of Hill Dalits (48%) fall below the poverty line and poverty incidence among the Tarai Dalits, Hill Janajati and the Muslims is significantly higher than the national average. The Janajati poverty aggregates also mask intra group differentials. The Gurungs, for example, have only 20 percent in poverty compared to Tamang, whose proportion below the poverty line (61%) is almost double the national average. In 1995/96 poverty was deepest among Dalits – meaning that the amount needed to bring their consumption levels to the national average was the greatest. By 2003/04 it was the Hill Janajatis who had the deepest poverty followed by the Dalits and the Muslims.

Multiple regression analysis using 2003/04 NLSS-II data showed that real per capita household consumption decreases with increase in family size, and residence in rural, hill or mountain areas or in the Mid- or Far-western regions. Per capita household consumption increases in households receiving remittances, having female heads and when household heads have primary or higher level of education, among others. But after controlling the effects of all these factors plus land ownership and type of employment of the household head, the average real per capita household consumption among Dalits, Janajatis and Muslims was still 25, 21, and 20 percent lower respectively than that of Brahmans and Chhetris. This unexplained gap in consumption levels can be seen as a ‘penalty’ attached to Dalit, Janajati and Muslim
social identity.

**Human development poverty: Health and Education Indicators**

*Health.* Overall male/female life expectancies have almost reached parity in Nepal (55.8 and 54.9 respectively) and the male/ female sex ratio now shows that there are now slightly more women than men in the Nepali population – which suggest that overall women’s survival chances are improving. However, the sex ratio for groups in the conservative Tarai belt is still skewed in favour of men and interestingly, it is the high and middle caste groups with the highest proportion of “missing women”(Acharya 2005).

Except for this one gender related indicator, however the Brahman/Chhetri group as a whole and Newars have higher health indicators than other groups. On average Brahmans and Newars live between 11 and 12 years longer than Dalits and Muslims (UNDP 2001). The Brahmans/Chhetri group and Newars have the lowest infant mortality rate (53 and 56, respectively) compared to the national average of 79 per thousand. Under-five mortality is also much lower for Brahmans and Newars (69 and 75 respectively) than for Dalits (171), Muslims (158) or Tamangs (141). Part of the reason for this is probably because women from the first two groups have the highest literacy rates and there is a strong linkage between mother’s education and child survival (NDHS 2001). Data from the 2001 DHS show that access to and use of a range of health and family planning services is consistently lower among Dalit and most Janajati women.
Box 4.1: Caste and ethnic dimensions of poverty: A summary of NLSS findings

- Poverty headcount dropped 11 points between 1996 and 2004—from 42% to 31%.
- Poverty has dropped across regions, quintiles, rural/urban and caste and ethnic groups.
- But there are major differences by caste and ethnic group:
  - In Poverty Incidence:
    - Nepal Average: 31%
    - Hill Dalits: 48%
    - Tarai Dalits: 46%
    - Hill Janajati: 43%
    - Muslim: 41%
    - The incidence of poverty among Dalits as a whole is nearly 50% higher than the Nepal average.
  - In the rate of decrease in poverty:
    - All Nepal average decrease was 26%.
    - Dalits almost kept up with average with a 21% decrease in headcount poverty;
    - But the decrease for Hill Janajatis was only 10%; and
    - For Muslims, it was even less, just 6%.
    - For Brahman/Chhetri group poverty decreased by 46%.
  - Variation in poverty incidence among Hill Janajati*.
    - Gurungs are below the national average for poverty (20%).
    - Tamangs have 61% living in poverty—nearly twice the national average.
  - For certain groups the share of population under the poverty line has increased in 2004 compared to 1996:
    - Hill Janajatis from 19.7% to 27.8% of the poor (+41%)
    - Muslims from 5.7% to 8.7% of the poor (+53%)
  - Poverty Gap or Depth of Poverty:
    - Deepest poverty in 1996 was among the Dalits; now among the Hill Janajatis.
    - Dalits still have the second deepest poverty followed by the Muslims.
    - Since 1996 depth of poverty and intra-group inequality has increased among Hill Janajatis.
  - Caste/Ethnicity are powerful predictors of per capita consumption.
    Even after the confounding factors are controlled, the per capita consumption levels in Dalit, Janajati and Muslim households are 25%, 21% and 20% lower respectively than Brahman/Chhetri households.

* These differences are less extreme when small area estimation techniques are used to increase sample size, but the pattern remains the same.
Education The overall literacy rate for the female population aged six years and over is 38.9 percent compared to 63.5 for the male population in the same age group. The literacy rate for women aged 15 and over is 33.8 percent compared to 64.5 percent for men in the same age group.

Over recent years literacy rates for the population aged six years and above have improved significantly, from 23 percent in 1981 to 54 percent in 2001; but Dalits and Muslims continue to lag behind. According to the NLSS II, only 12 percent of Brahmans, Chhetris and Newars have not been to school, compared to 52 percent of the Hill Dalits, 47 percent of the Tarai Dalits, 48 percent of the Muslims and 30 percent of the Hill Janajatis. While the Dalits have increased their share in the graduate (B.A. pass) or higher education bracket, they still make up less than one percent of the graduate population.

Political poverty: Participation in governance

Efforts to increase women’s participation in elected government after 1990 have largely failed. Women have never gained more than 6 percent of the seats in the lower house and even in the upper house where members are appointed, their proportion has mostly hovered at 5 percent. They make up only 7.1 percent of the UML Central Committee membership and 9.6 and 7.3 percent respectively of the central committees of the Nepali Congress and RPP. In local government it is mandated that one of the 5 Ward Committee members and 20 percent of the Municipality members be women, but in the more powerful VDC and DDC Committees and Councils women’s representation falls again to between 3 and 7 percent. Women make up roughly seven percent of the Civil Service and less than one percent of the Officers at First Class level and above. Their representation in the executive and judiciary branches is even lower.

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 (Figure 3). Janajati and Madheshi presence is limited does not match their proportion in the population. Dalits however, are almost entirely absent from Parliament and have only had one representative during the multiparty period. Given their dominance in the legislature, it is not surprising that men from the Brahman Chhetri group have also continued to dominate cabinet appointments. Their domination has also increased in civil service, from 70 to 90 percent between 1985 and 2002.
Applicants to civil service positions are also overwhelmingly (83%) Brahman/Chhetri. Candidates from this group are more than twice as likely to be chosen compared to 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; the B/C+ and Newar groups hold virtually all positions.

**Ground level realities of differential empowerment and social inclusion**

In addition to its analysis of the national level poverty data, the GSEA commissioned a separate in-depth study (Measuring Empowerment and Social Inclusion, MESI) to analyse of the relative material, social and political status of the relatively privileged Brahman, Chhetri and Newars (BCN) groups and the Tarai middle castes compared to the non-caste indigenous or 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 2 play out in real life. According to the MESI study:

- Not surprisingly, the ranking of social groups in the composite empowerment and social inclusion index (CEI) broadly reflects the traditional caste hierarchy: **The CEI levels of the Brahman-Chhetri-Newar (BCN) 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, efforts to influence, **BCN scores are 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 did face spacial restrictions were barred from entering a temple or kitchen only during temporary ritual pollution due to death in the family or (for women) menstruation or childbirth. But for Dalits ritual pollution and restriction is not a temporary state, but a permanent part of their social identity. All Dalits respondents reported experiencing some degree of restriction on entering certain public spaces and public intimidation and about 20 percent experienced high levels of restriction and intimidation.

- **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 than women.
  - Efforts to influence: Men try to influences the institutions that are supposed to deliver services to them 2.7 times more than women do.
  - Effective local political influence: men are 4.8 times more able to actually influence their institutional environment than 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. In other words, **caste/ethnic identity affects 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 have benefited other women.
  - But even when they are able to join various types of women’s 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.

- **When caste and gender differentials combine, it is Dalit women who are at the very bottom with male BCN’s mean CEI score (52) more than double mean CEI index for Dalit women (22).**
The study also tried to determine the major factors influencing levels of empowerment and social inclusion. Regression results showed that:

- Caste and gender together explained 33 percent of the variation in the CEI index.
- **Caste is a more powerful predictor of empowerment/inclusion than gender**; it explained 27 percent of the variation in CEI scores while gender explained only 7 percent.
- Being a member of a group was associated with a 5 percent increase in CEI levels.
- 10 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.

**Public discourse and action**

Until April 1990, Nepal’s movements for women, Dalit and Janajati rights remained subdued within the larger struggle for democracy. The People’s Movement that resulted in an end to absolute monarchy and direct rule under the Panchayat system marked the beginning of a new era in Nepal—that of citizens’ rights. Various social movements have grown after April 1990. Collectively, these movements have critiqued the triumvirate of pre-1990 national identity—the monarchy, Nepali language and Hinduism—and continuously challenged the traditional exclusionary definition of what constitutes a 'real' Nepali.

Generally, the women’s movement has succeeded in placing questions of gender equality and justice on the national agenda and the Dalits have also begun to challenge Nepal's caste society. The Janajati movement—once described by many Brahmans and Chhetris as a 'divisive phenomenon'—has also raised fundamental issues of fair ethnic representation. It has also continuously challenged Nepal’s identity as a Hindu kingdom and placed issues related to rights of languages, other than Nepali, cultures other than that of hill Parbatiyas, and religions other than Hinduism on the national agenda.

Post 1990 guarantees of political and civil liberties have significantly altered the consciousness of Nepalis who – even in rural areas – increasingly see themselves as sovereign rights holders. However, many formal and informal institutions and policies remain stubbornly exclusionary, in terms of gender, caste and ethnicity and most demands of those excluded remain unmet. Therefore, the shift of Nepalis from subjects of an absolute monarch to sovereign citizens
(regarding their political destinies) remains incomplete.

Exclusion within excluded groups is also being questioned. For example, Dalit activists are examining the dominance of the Biswakarma and Pariyar castes, and Janajatis that of richer groups within the movements. Both groups are also facing questions about male dominance. The domination of the historically privileged BCN castes and ethnic groups within the women's rights movement is also a matter of growing concern for Dalits.

However, the major social movements remain independent of each other, despite their many common demands. Because little dialogue has taken place among these movements, the demands of some groups contradict those of others—giving the state space to delay fulfilment. The delay in the state’s response has also resulted in the growth of radical or revolutionary offshoots that sometimes overshadow the mainstream or reformist ideas (inclusion in the existing state). The radical strains are most notably embodied by the CPN (M), even though smaller leftist organizations and even some mainstream parties also espouse similar ideals.

**Government policy and institutional framework**

Nepal has completed almost half a century of planned development. The Tenth five-year Plan (2002-2007) is also Nepal’s Poverty Reduction Strategy Paper, (PRSP). The Eighth Plan (1992-1997), the first formulated by the democratic government, introduced poverty alleviation as one of three objectives. It was also the first public document to address the caste/ethnic issue, albeit indirectly. The Eighth Plan disaggregated the ‘poor’ and attempted to target particular ethnic and caste groups under the somewhat vague and unspecified category of ‘disadvantaged groups’. However, even though primary school scholarships for Dalits were introduced, similar schemes for other ‘disadvantaged groups’ were not initiated.

The Ninth Plan addressed Dalits and Janajatis by name—for the first time—and had a separate chapter subsection dealing with Adivasi Janajatis in development. It also began allotting a portion of VDC and DDC grants for income-raising and skill development programmes for Janajatis and envisaged founding an autonomous Janajati Council at the district level. However, DDC and VDC-level commitments were not fully implemented. In 1997 the government formed a National Committee for the Development of Nationalities (NCDN). The National Foundation for the Development of Indigenous Nationalities (NFDIN) Act was enacted in 2002.
Planned efforts to improve the situation of women began during the Sixth Plan (1981-1985) but its approach was welfare-driven. The Eighth Plan spoke about increasing women’s representation in decision-making and also introduced the idea of ‘gender’ based ‘discrimination’—but did not define either term. The Ninth Plan used gender as a synonym for women but, like earlier plans, lacked operational guidelines.

The Tenth Plan/PRSP is the most serious and comprehensive government statement about inclusion to date. It identifies social exclusion as one of the three main aspects of poverty and the main reason for deprivation of certain caste and ethnic groups, women and people living in remote areas. It recognises lack of voice, political representation and empowerment as important dimensions of poverty that are linked to economic and human development poverty. It also understands exclusion as one of the factors behind the conflict and includes a detailed caste, ethnicity, and gender-disaggregated analysis showing Dalits at the bottom of almost all human development indicators. The PRSP also mentions the need for “affirmative action” to level the playing field.

Even the PRSP however, fails to present a realistic strategy and concrete mechanisms to mainstream the excluded gender and caste groups. The Targeted Programmes it proposes are also narrowly-based and even through the government ranks programmes by priority using the Medium Term Expenditure Framework, inclusion is not part of the criteria for prioritization. The document does mention caste straightforwardly while describing strategies for Dalit inclusion but reverts to term ‘deprived communities’, sending mixed signals about the commitment. The plan also lacks quantitative targets in important sectors such as education, health and Targeted Programmes.

A major weakness of the PRSP is its ambiguity about the roles and accountabilities of the actors who are to implement the proposed actions. The government has made a beginning in this direction by developing a Poverty Monitoring and Analysis System (PMAS) to support PRSP implementation. PMAS requires monitoring at three levels: implementation, performance and outcome. It also has number of outcome/intermediate indicators, and requires use of data disaggregated by gender, caste and social groups, for monitoring.

Overall, the identification of social exclusion as a development problem, acknowledgement that it has contributed to the on-going conflict and the accompanying commitment to social inclusion are significant steps. But the operational modality remains one of
centrally dispersed welfare and gender, caste and ethnicity-based disparities remain to be addressed directly—as rights.

The GSEA study also reviews public discourse and actions in relation to the three main social movements to assess their achievements and shortcomings.

**Responses to Gender Discrimination**

Before 1990 women's issues were cast in the framework of development and welfare—not rights—and with some exceptions, this is generally still the norm. The welfare approach characterises women as uniformly 'backward, illiterate and tradition-bound'. The assumption underlying this view is that a uniform 'Hindu patriarchy' constrains all women in the same way and therefore, a single policy towards women is appropriate regardless of their class, caste, ethnicity, religion and age. In other words, the understanding of gender has ignored the important specificities of class, caste, ethnic, age and other cross-cutting divides.

Women’ have a much longer history in Nepal as a socially disadvantaged group in the eyes of the state than Janajatis and Dalits. The earliest women’s organisations were founded in the late 1940s. Some pre-Panchayat protests by women included the demand for the right to vote. Under the 1976 Class Organisations Act, the Panchayat rulers recognised women as a social group. New women’s organisations have emerged and are demanding conditions of economic equality by ensuring equal property rights, quotas in education and jobs and voice in political parties and government. The development response to women’s claim for equal rights however, still hinges largely on the welfare model.

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 also introduced mandatory representation of women in local government. However, women’s representation declines progressively at higher decision-making levels where they are outnumbered. Elected local bodies were suspended in July 2002, resulting also in the suspension of the representation requirements of the LSGA.

Nepal has ratified the Convention on Elimination of all forms of Discrimination Against Women (CEDAW), which requires it to change about 85 laws and 137 legal provisions that are discriminatory. This remains to be done. The government has not signed the Optional Protocol to CEDAW, which would give women the right to challenge the discriminatory laws
internationally.

The Ministry of Women and Social Welfare, established in 1995, was renamed the Ministry of Women, Children and Social Welfare (MWCSW) in 2000. The MWCSW lacks adequate financial and human resources to carry out its responsibilities effectively, and has also largely failed to consider the priorities and needs of women from different caste and ethnic groups.

The Ministry of Local Development (MLD) was first to incorporate gender issues in programming when it set up the Women’s Development Section (WDS) in the early ‘80s. Its major achievements include the PCRW and other group-based microfinance programmes for rural women, the promotion of reservations for women and requiring User Groups to have at least 30 percent women members. Women Development Officers (WDOs)—first hired in under the PCRW programme in 1983 and always field-based and focused on rural women—have now been shifted to MWCSW which has no real field presence. This has to some degree sidelined the WDOs who continue to head Women Development Offices in the districts but are no longer seen by MLD as part of its district development machinery. However, the WDOs are now being trained to serve as district Gender Focal Points and mandated to integrate gender and children’s rights in the decentralised planning and review processes. The focal points will also be responsible for generating disaggregated data and conducting gender audits of sectoral and district-level programmes.

Nepal set up the National Women's Commission (NWC) in 2002. But it did not have a legal basis and its mandate remained unclear. Its members retired in March 2004 and replacements had not been appointed in end-October 2005. Brahman and Chhetri women—appointed mainly on the basis of their political affiliation—dominated the NWC membership.

Generally, inclusion of women in development continues to fall into very specific gendered roles that often reinforce unequal access to resources and institutions, particularly for poor and socially marginalised women. Tension also exists between technocratic ‘fixes’ (often preferred by donors) and those advocating more long term socio-political change. The latter is more likely to occur as a process of democratic trial and error, often led by ordinary people (including politicians) and tends to be ‘messier’ and less amenable to donor’s timetables and budget cycles. There is also an apparent donor bias favouring ‘professional’ NGOs—those whose leaders are conversant with the current development trends and can converse in English—
over smaller local NGOs or mass organisations of political parties’, even though the latter could potentially be more effective at mobilising women and influencing policy change. As a result, programming has tended to remain narrowly focussed, without necessary policy foundations and appropriate linkages for expansion and gender mainstreaming in the real sense.

The representation of women in political parties remains low, especially at higher leadership positions, and this remains a major obstacle in having more mainstream policies and programmes that focus on women and other disadvantaged groups. Women organisations of the parties remain in a subordinate relationship within the typically male-dominated institutions.

**Responses to Caste Discrimination**

Dalits as the people at the very bottom of Nepal’s caste hierarchy, have in the past been a source of discomfort to educated bureaucrats who in their formal roles regard the caste system as outdated and inconsistent with their goal of developing Nepal into a ‘modern’ state. Even now, the government and many development/aid organisations use euphemisms such as ‘occupational castes,’ ‘oppressed castes,’ ‘backward classes,’ ‘depressed castes,’ ‘deprived castes,’ ‘marginalised,’ and ‘the disadvantaged groups, instead of referring to them as Dalits. The hesitation to use the term Dalit deflects attention from caste-based discrimination that is still everyday reality and must be tackled head-on.

Over 200 forms of commonly practiced types of caste-based discrimination have been identified in Nepal. This includes limiting the so-called lower castes to socially-sanctioned roles, forcing them to carry out demeaning caste-based tasks such as removing the carcasses of dead cattle, refusing to share water sources with them and the elaborate behaviours intended to avoid any direct bodily contact – the literal practice of untouchability – which in most cases still goes unpunished. Generally, discrimination is more entrenched in the less developed regions of the country, especially in the Mid- and Far-western regions. But the caste rank continues to influence inter-personal behaviours throughout Nepal—with variations only in the degree and the nuances. There are districts in the eastern Tarai where the privileged castes have even resorted to economic and physical violence to enforce traditional caste-based practices. There is still no consensus on which communities fall into the category of Dalit or on the size of their population. According to the 2001 Census Dalits comprised 13 percent of the population but the figure is contested. One demand of Dalits is to have an accurate, acceptable database on the Dalit sub-
castes.

Broadly, Nepal’s Dalits can be grouped as Hill Dalits who make up 61 percent of the Dalit population and the Tarai Dalits. The largest group is that of the metal worker, including Kami (blacksmith) and Sunar (gold worker) from the Hills and Lohar from the Tarai. Many small groups collectively comprise the Tarai Dalits. One of the ironies of the situation of Dalits is that they traditionally practiced stratification—along Hindu lines—among themselves. The Dalit movement rejects this hierarchy and is working to remove the barriers between its constituent groups. Unlike many Janajatis, the Dalits do not have any geographical centre or ‘traditional homeland’ where they are numerically predominant, but are instead, scattered throughout Nepal.

One of the few pro-Dalit moves by Nepal has been ratification of several international conventions whose compliance is monitored by a group of human rights organisations and NGOs, including Dalit NGOs. However, the government does not appear to be taking the monitoring reports seriously.

The government did establish the National Dalit Commission in March 2002 with Dalits as members. But like the Women’s Commission, its members were chosen based on party affiliations, its functions were not legally mandated and funding was inadequate. Despite the odds, the NDC was able to draft a bill for itself, which has not yet been enacted as law. Dalit rights activists have also not concentrated hard enough on lobbying for amending or repealing existing laws through public interest litigations. Recently a case was taken to court by an NGO where it won an important judgement against the government policy of building separate water taps for Dalits.

The scholarship scheme for Dalits remains constrained by over-politicization and procedural flaws. The programme was initiated in 1996 but remains under-funded – though the recent initiation of the Nepal Education for All primary education programme is providing additional funds for Dalit scholarships.

Donors have supported Dalit rights but have not done enough. NGO/ INGO critiques of donors include unreliable funding, non-interest in capacity enhancement, emphasis on political/social rights without sufficient attention to livelihood issues, and excessive reliance on ‘high’ caste staff.

There are two kinds of Dalit NGOs. Large national level NGOs include the Dalit Welfare
Organisation (DWO), the Feminist Dalit Organisation (FEDO), Nepal National Depressed Social Welfare Organisation (NNDSWO), Jana Utthan Pratisthan (JUP) and the Jagaran Media Centre (JMC). There are also many smaller Dalit organisations working at the community levels. All Dalit NGOs conduct advocacy/activist functions alongside traditional development activities. The Dalit NGO Federation (DNF), with a membership of over 200 Dalit NGOs, is emerging as a powerful converging point for the movement.

Dalit representation in executive bodies of political parties remains very low. The only Dalit member of the House of Representatives was elected on a NC ticket in 1991. There has also been no Dalit representation in parliament after 1994 and it remained low in elected district and village-level offices. Much blame for this falls on the political parties that have failed to field Dalit candidates or have ghettoised them in losing electorates. Nepal also had only one Dalit as assistant minister. The Brahmans, Chhetris and Newars have a monopoly over public jobs and resources, and there is a near-total absence of Dalits in public service. There are very few Dalits in the media and other civil society organisations.

In conclusion, with a few exceptions Nepal’s non-Dalit actors have left it to Dalit leaders, activists and organisations to ‘fight their own battle.’ This has not helped the Dalit movement, which can succeed only when it is able to build coalitions with reform-minded non-Dalits to add voice to their demands.

Response to Ethnic Discrimination

Nepal’s Adivasi Janajati (indigenous nationalities) movement builds on several issues. One is the need for constitutional reform to remove the discriminatory provisions. Equitable representation by changing the electoral system and through reservations or other forms of affirmative action is another major demand. They also want guaranteed access to common properties/resources expropriated in the past by the privileged caste groups.

The government originally prepared a schedule listing 61 Janajati groups, which was later reduced to 59 in the law. Among the groups 18 are from the Mountain region, 24 from the Hills, 7 from the Inner Tarai and 10 from the Tarai. The Census (2001) enumerated only 43 of 59 Janajati groups and reported a population of 8.27 million. After incorporating the 16 ‘missing’ indigenous nationalities, the total population could be around 40 percent of the total. Four Janajati groups have populations exceeding a million, six have numbers between 100,000 and a
million, nine groups have populations of less than 100,000 and some have less than 1,000 people. The numbers of several others do not exceed 10,000. There are disparities even among the Janajatis: According to NEFIN 10 among the 59 are “endangered”, 12 “highly marginalised”, 20 “marginalised”, 15 “disadvantaged” and two are “advanced” or better off. Thus, the Janajati movement has recognised its own heterogeneity and expects different levels and forms of policy and affirmative action for its constituents.

Nepal’s Constitution (1990) explicitly uses the term Janajatis in Article 26 (10) acknowledging both their presence and their relative social and economic deprivation. The use of Nepali as the only official language to exclude languages spoken by Janajati groups and by other linguistic minorities like Maithili, Bhojpuri, etc., is discriminatory. However, there have also been modest efforts to use minority languages in newscasts on state-run radio. Also block grant funds are being made available for schools to hire bilingual teachers in the first grade and a programme is being piloted that will train and use bilingual teachers in primary schools in areas where there are significant numbers of non-Nepali speakers.

Nepal began planning for the Janajati only in the Ninth Plan (1997-2002) and the Tenth Plan devotes an entire chapter to issues related to the indigenous nationalities. But there are no quantitative targets.

The GSEA estimates there could be at least 150 Janajati organisations (claims are as high as 300). Forty-eight Janajati organisations were members of NEFIN in June 2005. Janajati organisations are financed largely through personal donations and various types of fees, including membership. Some individuals have donated land and buildings to specific organisations and others have created trusts or endowments to fund activities.

NEFIN is at the forefront of the Janajati movement. Initially it concentrated on religious freedom, linguistic equality and rights, and cultural promotion and preservation. It has also raised issues of governance, human rights, biological diversity, indigenous knowledge systems, conflict and peace building, constitutional reform, restructuring Nepal’s political institutions including the electoral system, federalism, affirmative action and social inclusion.

Many donors have been unable to clearly differentiate between Dalits and Janajatis. Until ethno-politics was legalised in 1997, donors feared that the dominant caste groups could interpret their support to Janajati-oriented projects as assistance to those who wanted to ‘tear Nepal apart.’ The Janajati community itself has also been ambivalent about receiving donor support—the
opponents argue such support would mean an end to the spirit of the Janajati movement. The major issues of the movement include:

- 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. They want Nepal to be declared a secular state, and all languages recognised for use in state affairs alongside Nepali.
- State assistance in implementing the acknowledged right of every community to run schools in which primary level classes are taught in the mother tongue of the students and abolition of compulsory Sanskrit study. They propose a three-language policy in education and administration: mother tongue, a second Nepali language (in most cases, Nepali itself) and an international language.
- Equitable representation through different measures including ‘restructuring the Nepali state’ by changing the electoral system and reservations for increasing participation in civil service. The GSEA report recommends a fresh classification to identify all Janajati groups based on poverty incidence, educational levels and key health indicators and provide the basis for eligibility to special state initiatives, including reservations and scholarships, for those most disadvantaged.
- Access to common property resources once communally owned by certain Janajati groups. They demand Janajati rights to resources by based on recognition of their “traditional right of ownership and usage” especially for forests and pastures.
- On full self-determination, the general consensus seems that it is not politically or fiscally realistic. Instead, there are demands for establishing self-governing ethnic autonomous regions within the current unitary state or a newly organized federal polity. The Maoists have called for complete ethnic autonomy in six of the nine autonomous regions they have proposed – though it is not entirely clear what ethnic autonomy means in the context of a totalitarian Maoist ideology.

**Sex, Caste and Ethnicity-based Exclusion in Law**

Cultural practices and even some laws in Nepal discriminate on the basis of sex, caste, ethnicity and religion. Laws aimed to protect people from discrimination remain weakly implemented. It is clear that even the best designed legal provisions alone cannot end the
exclusion some citizens face because of their gender, caste or ethnicity. The challenges are not only amending laws but also changing the mindset of people, and formal and informal institutional mechanisms that perpetuate the discrimination.

The Muluki Ain (1854) first formalised the caste system in 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 new Country Code but it came with ambiguity protecting “traditional practices”. Nepal has not signed the ILO Convention No. 169, the international instrument that deals specifically with the rights of indigenous and tribal people.

The larger issue is not the lack of legislation, however. The Constitution and the Civil Rights Act, of 1955 prohibit discrimination against any citizen on 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 and particularly with regard to obtaining citizenship papers, many ad hoc, discriminatory administrative practices still prevail against certain communities—such as Madhesis, people of Tarai origin. Many laws enforcing outright discrimination remain to be amended.

Many laws discriminate against women in the areas of citizenship, property, education, employment, health, sexual offences, marriage and family relations, court proceedings and identity. Not only are Nepali women unable to confer citizenship to their children, their identity as mother and/or wife is also not legally recognised.

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

The Constitution prohibits “traffic in human beings, slavery, and serfdom or forced labour”. However, the law exempts buyers from legal jurisdiction as the ‘purchase’ of a human being is not considered as an offence. Nepal has no law to deal with sexual harassment.
Improving access to health

Equitable and efficient health policies and institutions are essential in order to be able to attain the Millennium Development Goals (MDGs). As noted earlier, recent data show that Dalits, Muslims and disadvantaged Janajatis have the poorest health outcomes and immunisation coverage is lowest among Muslim and Dalit children. Women in these groups marry early and have the lowest levels of access to pre- and post-natal care, family planning and knowledge about HIV/AIDS. Overall maternal mortality in Nepal remains among the highest in the world, and women from all groups also face additional social barriers in getting access to health care. These facts suggest that since women and excluded social groups represent the population with the largest ‘health deficit’, targeting basic health and family planning services to them should be a central element of the MDG strategy.

The government, through its Health Sector Strategy (HSS), has begun the transfer of Sub-Health Posts (SHPs) to Local Health Management Committees (LHMCs) that are mandated to include women and Dalit representation. The government is moving towards harmonisation of aid and has introduced sector-wide programmes (SWAp) in health and education. Key elements of the HSS are decentralizing service delivery, contracting out the management of district hospitals, ensuring delivery of Essential Health Care Services (EHCS), especially to marginalised populations, and improving sector management. The government has also introduced gender mainstreaming in the Ministry of Health. But overall outcomes for excluded groups remain poor and it is difficult to track progress in improving service delivery to these groups because the Health Management Information System does not collect disaggregated data.

Improving Access to Primary Education

As documented earlier, there are large disparities in education in Nepal. Between 20 to 30 percent of school age children do not attend school, and most of them are either girls, Dalits or Janajati. In addition to problems of access resulting from poverty and the on-going conflict, barriers based on social identity—caste, ethnicity and language—also keep many children out of school. Children with no education face a life at the margins of economic and political life; which also constrains Nepal’s ability to attain the MDG goal of universal primary education by 2015.

One reason for low female enrolment and retention is that despite government
commitments nearly 10 years ago to place at least one female teacher in every school this has not been done and the number of women teachers remains low. Another outstanding issue in education is language. Roughly 52 percent of Nepalis do not speak the national language as their mother tongue. This means that Janajati children and children from other linguistic minorities are introduced to school and a new language at the same time. As part of the Nepal Education for All SWAp, a special transition programme is being piloted in 5 schools to help such children perform better during their first years in school so they are encouraged to continue their education. Also underway is a national programme to involve communities in school management, which is expected to raise ownership and contribute towards improving education quality. But there are issues of inclusive representation in school management committees that remain to be addressed.

Local Groups and Group-based Coalitions for Social Inclusion

Nepal has a long tradition of local civic organisations. Many of the traditional groups were organised on the basis of religion but their functions also encompassed the secular management of common resources. Over the last 30-40 years, the customary groups have been supplemented by ‘sponsored groups’ – most formed by state agencies, donors and NGOs for specific development objectives such as service delivery, livelihood improvement, infrastructure building, resource management, credit extension and empowerment. Some grassroots groups begun to replicate themselves and have organized themselves into larger federations—some at the district level, some at the national level and a few that even articulate loosely with international interest groups. These higher-level associations give voice and added political representation to their constituents through lobbying for policy change, networking and publicity campaigns.

A major challenge for the stalled decentralisation agenda is the clarification of roles and responsibilities—not only between the central line ministries and locally elected bodies, but also between the latter and local civil groups like the School Management Committees, Forest User Groups, etc., many of which have been given significant control over state resources. Attention will need to be given to determining the comparative advantages of each of the three actors, coordinating their efforts and ensuring that there is adequate representation of excluded groups and their interests at all levels.
Nepal’s Constitution incorporates decentralisation as one of the directive principles and policies of the state. Decentralised governance—the devolution of initiative, authority and resources to local bodies and organisations—has been conceived within an overarching state apparatus. The conflict, however, has reduced effective reach of both elected governing bodies and administrative agencies in the countryside. 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, after which several non-elected alternatives have been tried out. Therefore a key concern is how development groups used to operating without coordination with or accountability to local authority will relate with the elected bodies when they are reinstated.

○ Some GSEA findings relating to groups include:
  • The idealised notion of ‘community’ fails to recognise factional interests within communities and there are class, caste and gender-related conflicts even within forestry groups—that are said to be the most ‘successful’ of the local civil groups.
  • Groups still remain an effective modality for empowering and facilitating greater inclusion for women and for producing longer-term positive development outcomes. However, there are disparities in terms of empowerment, with Brahman, Chhetri and Newar group members tending to benefit the most.
  • The GSEA attempted to roughly estimate of the total number of local-level groups, based on statistics available and separate studies done by 17 agencies. Based on data on programmes in the nine sectors, there are about 400,000 local groups in Nepal.
  • The Hills are more likely to have group-based development activities compared to the Tarai and Mountain regions.
  • Although women are fairly well-represented among group members, they continue to play a less prominent role on the executive committees. Disaggregated data by caste and ethnicity, of group membership and leadership is almost non-existent.
  • The opportunity cost of group membership and activities remains high for Dalits and other marginalised groups.
  • Selected case studies reveal that the livelihood aspects of development goals can be addressed through group-based programmes when they are appropriately implemented. The income of disadvantaged populations can be raised by fostering savings-based microfinance organisations and through new employment and economic activities. However,
implementing such actions is not easy because programmes that are able to offer the kind of comprehensive technical support needed are rare.

- Often homogenous groups—in terms of gender, caste and ethnicity—are best suited for serving the interests of disadvantaged groups. By definition, ‘elite capture’ is more likely in mixed groups. The full potential of local organisations to empower the poor and socially marginalised therefore remains to be realised. Not enough attention has been given to the governance structure of groups, especially in terms of building in social accountability and other mechanisms to prevent elite capture and to ensure wide representation.

The quiet revolution underway in Nepal is taking the impetus for group-based collective action from the villages to national (and sometimes international) arenas through group-based federations and associations. These movements seek new platforms and aim to influence policy at higher levels. Groups therefore have the potential to support member empowerment by forging and practicing new, more egalitarian rules of the game for social and economic interactions.

**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. Based on the assumption that people are the same and that they start from the same point, many well intended government policies practice of *formal* equality in their treatment of citizens. In contrast, *substantive* equality recognizes that treating everyone equally without recognizing inherent inequalities ends up perpetuating inequality. Affirmative action is contentious because it is essentially about shifting power relations and even the space for “marginal” change is highly contested.

Affirmative action does not necessarily overrule the ‘merit’ principle—though this has often been an issue raised by those who resist change—as long as the basic qualifications are needed for performing specific functions remain as essential criteria. But often those who define ‘merit’ represent a select and privileged minority of the population rather than the broad citizenry. Contemporary approaches to affirmative action in both the private and public sectors are based on the management discovery that a diverse workforce is a better workforce. For the private sector this means that the firm will be better able to understand and respond to the needs of a diverse customer base. For the civil service it means that the bureaucracy will be more
representative of and hence more responsive to a diverse citizenry.

Affirmative action as currently debated in Nepal relates not only to the civil service, but also to elected government and to the education, employment and health sectors. The earlier discussion on human development and political poverty documented the disparities in the health and education levels of women, Janajatis and especially Dalits compared to other groups and their low levels of representation in the nation’s governance institutions. HMN/N’s current views on affirmative action however, are not clear. The need for some sort of affirmative action for these groups is not disputed but the modality has been the source of some contention – as well as the issue of which groups (the disabled? Madeshis?) should be included.

Two years ago in December 2004, a High Level Reservations Committee was established under the chairmanship of the then Finance Minister with the mandate to prepare a report for the government with recommendations for affirmative action measures for women, Dalits and Janajatis in the spheres listed above. At that time MOGA was also preparing an affirmative action plan for the civil service and one formula for reservations circulating in the halls of the bureaucracy was 20 percent for women; 10 percent for Janajati and 5 percent for Dalits or 35 percent overall. A change of government caused the High Level Reservation Committee to be disbanded before it could present its report and there has been no follow up. The recent draft civil service reform act prepared by MOGA has not recommended specific quotas for reservation in the civil service because of the ministry’s concern that such a move might undermine the civil service’s reputation as a meritocracy. However MOGA has drafted its affirmative action plan which contains a number of mechanisms aimed at increasing the gender, caste and ethnic diversity of the civil service through

However, fostering genuine diversity in Nepal’s civil service will require a complex mixture of political and senior management commitment, the communication of that commitment, and pressure for results, as well as negotiation and dialogue. It will also require support for learning and capacity building of both new entrants and those already in the system.

Affirmative action in the education and health sectors has – at least formally – been built into the primary education SWAp and the Health Sector SWAp through the incorporation mechanisms mandated in the Vulnerable Community Development Plans for each of these programs as described above. In addition, plans are underway in the Higher Education sector to establish criteria for access to scholarships under a new Work Study Programme which in
addition to means testing, would also consider gender, caste and ethnicity as criteria for eligibility.

Probably the most contentious sphere for affirmative action is in elected government. In addition to the mandatory inclusion of a certain proportion of women in various tiers local government, the political parties are required to put up women candidates for at least 5 percent of the constituencies were they contest. As we saw in the section on “political poverty” however, none of these provisions seems to have brought much change into the male controlled political sphere. Here it must be said that the political parties must take a great deal of the responsibility. In terms of gender as well as caste and ethnic diversity, the internal power structures of main political parties are not very representative of the diverse citizens they claim to represent. Women make up less than 10 percent of the central committee membership of the three main parties and while the RPP party has some 25 percent Janajatis on the Central Committee, the two major parties, Congress and UML, have only 10 and 3 percent respectively – even though the Janajati represent over a third of Nepal’s population. None of the parties have a single Dalit on their Central Committee.

This situation prevails despite the fact that the manifestos of all the parties commit to promoting gender, caste and ethnic equality. For years politicians in Nepal have been able to say one thing and do another with apparent impunity. As a result however, the credibility of the political parties has been drastically eroded over the past fifteen years of multiparty democracy. One of the urgent steps that the parties need to take to restore their credibility and regain their rightful place as the legitimate leaders of the democratic movement is internal reform to bring greater transparency, accountability and inclusiveness to their own organizations. As long as the mind set of the party leaders and the internal power dynamics of their organizations continue to be structured on the basis of caste, ethnic, gender – and age – hierarchies left over from feudal times, the parties will lack the legitimacy they need to guide Nepal out of its current crisis of governance.

As this report as documented, the parties are not unique in their failure to match their action with words or align their informal behaviour with formally espoused policies regarding caste, ethnic and gender discrimination. The point here is that, like all the policy reforms, affirmative action as a lever for social inclusion is necessary but not sufficient for bringing about significant and sustainable positive outcomes for socially marginalized groups. In order to be
truly effective and sustainable, affirmative action thus requires a broader social and political commitment to equality and human rights as articulated by the Constitution, laws and policies. It requires a change in internal values and behaviour of Nepali citizens to make these formal commitments into a living reality.

Part III: Key GSEA Policy Points

The chart which follows presents the GSEA’s priorities for policy action. Most of them (1-7) are primarily directed towards government, though donor agencies and civil society organizations could play important supporting roles. Actions 8 through 10 would benefit from government support but other players – civil society and donor agencies – could act directly in these areas on their own. Finally, action 11 is directed towards donor agencies and NGOs as a parallel to action 7 which recommends that government develop and implement a policy on affirmative action. There are some critical actions – such as restoring elected government at all levels – which were not included in the list but are integrated into the text.

**KEY GSEA POLICY POINTS**

<table>
<thead>
<tr>
<th>Action</th>
<th>Basis for Action</th>
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<tbody>
<tr>
<td>1. Gd</td>
<td>HMG/N targeted programmes for women, amount to only 2.3% of the total budget of even the 3 sectoral ministries most important to women (Health, Education and MWCW). For Dalits and Janajatis it is even less (0.7% and 0.1% respectively). HMG/N allocation in 2004/5 was Rs. 20m on Dalits while donors spent Rs. 450m outside the government budget, thus reducing HMG/N’s ability to prioritize and coordinate the use of donor resources. Currently funds for all targeted programmes under the inclusion pillar amount to just over 6% of the entire budget. This is clearly inadequate to create a level playing field for these groups. Structural change towards social inclusion envisaged by the PRSP is possible only with increased, focused investment by both government and donors to insure inclusion across all core programmes. Inclusive budgeting will ensure the full weight of the government budget supports inclusion rather than insignificant token amounts.</td>
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<tr>
<td>1. Gd</td>
<td>Rather than relying on targeted programmes alone, adopt inclusive pro-poor budgeting to insure full access for women, Dalits and Janajatis in all core government programmes: ? As has been done with the Health and Primary Education SWAps, conduct a systematic analysis of all new mainstream programmes to identify barriers to access for women, Dalits and Janajatis; ? Develop specific mechanisms and incentives to overcome the barriers; ? Assign clear accountability for achieving the inclusion objectives in all sectors; ? Develop clear outcome indicators disaggregated by caste, ethnicity and gender; and ? Track indicators in a real time sectoral monitoring and evaluation systems linked to the PMAS to ensure effective corrective policy actions.</td>
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### 2. **Make organisational changes for effective implementation of the inclusion pillar:**

- Establish a national-level ‘inclusion unit’ or ‘task force’ in NPC to coordinate and monitor inclusion initiatives by government ministries with appropriate linkages with the central PRSP monitoring system.
- Empower the Gender Focal Points in all line ministries by making them part of a ‘sectoral social inclusion unit’ responsible for vetting all ministry programmes and policies from an inclusion perspective. The unit would be strengthened with experts on Dalit and Janajati issues—and headed by a joint secretary.
- Build on the strength of the existing district level Women Development Offices to establish and link ‘district inclusion offices’ with the sectoral and national units—as well as with decentralised representatives of the NWC, the NDC and NFDIN to ensure coordination.

Inclusion efforts of the government have not been translated into coordinated action at the sectoral ministry levels, where both formal and informal barriers still seem to be entrenched. Effective coordination of policies and actions under the inclusion pillar can greatly increase impact, reduce duplication and lead to predictable outcomes at all levels. The concept of **inclusive budgeting** requires trained professionals in each major sectoral ministry to examine major policies and programmes in that sector for its likely impact on excluded groups and recommend specific mechanisms to insure that they benefit and to monitor their inclusion.

### 3. **Improve the governance structure of the national commissions for women and Dalits:**

- Re-establish the National Women’s Commission and the National Dalit Commission through legislation.
- Enable the commissions to function as semi-autonomous constitutional bodies, with authority to receive a regular budget from the MOF and support from donors.
- Ensure ‘listening relationships’ with proposed inclusion units at all levels so that the Commissions are aware of the changing situation on the ground for excluded groups.

The commissions set up under an executive order do not have the legal authority to function independently of government and political influence. Therefore, legal recognition and autonomy can enable them to function effectively and independently, using professional help where needed.

### 4. **Enact critical legal changes to ensure equal rights for all citizens:**

#### For women
- Ensure equal citizenship rights to women, their children and their spouses
- Ensure equal rights to ancestral property for women and married daughters
- Repeal the provision which allows a man to enter a bigamous marriage under certain conditions.

#### For Janajatis
- Remove the word “Hindu” from Article 4 of the Constitution to make Nepal a multiethnic, multilingual, democratic, independent, indivisible, sovereign and constitutional monarchical kingdom.
- Amend Article 19 (1) to permit the State support for one religion and recognition of only one official language automatically discriminates against others. Allowing discrimination as a social custom reinforces the traditional institutions based on inequality. Increasing punishment for caste based discrimination can serve as an

Constitutional Article 9 (1, 2 and 5) discriminates against women by linking rights exclusively to paternal relations. The Civil Code continues to discriminate against women who are married requiring them to return their inheritance.
right to religion.  
? Amend Article 6 (1) to permit alternate official languages.

**For Dalits**

? Remove the ambiguity about the right to practice untouchability/ caste based discrimination as a social custom  
? Increase punishment for caste-based discrimination in the public and private spheres.

effective deterrent but long term social change can come only through effective inclusion.

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<tr>
<th>5. <strong>G</strong></th>
<th>5. <strong>G</strong></th>
<th>Enhance PMAS by improving monitoring capacity of key sectoral ministries to track social inclusion:</th>
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<tr>
<td><strong>d e c</strong></td>
<td><strong>d e c</strong></td>
<td>? Sectoral performance data needs to be disaggregated by gender, caste and ethnicity for all monitoring purposes.</td>
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<td></td>
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<td>? To simplify the process, we suggest three main categories or “baskets” into which all caste/ethnic groups could be sorted – plus gender, since women are disadvantaged across all groups.</td>
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<tr>
<td></td>
<td></td>
<td>? The three categories would be:</td>
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<td>o <strong>Dalits</strong></td>
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<td></td>
<td>o <strong>Other excluded/disadvantaged groups</strong> including Muslims and Janajati and Tarai middle caste groups who fall below the national average on poverty indicators – up-dated from time to time via the Census, the NLSS and DHS.</td>
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<td></td>
<td></td>
<td>o <strong>Non-excluded groups</strong> such as Brahmans and Chhetris, Newars, Thakalis, Gurungs and Tarai middle caste groups whose poverty indicators are above the national average.</td>
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<td></td>
<td>? This would require a statistical analysis to identify the disadvantaged among the Janajati and other groups.</td>
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<td></td>
<td>? Continue income-based tracking and targeting to ensure that the poor within the privileged caste/ethnic groups are not missed.</td>
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<td></td>
<td>? Include social accountability mechanisms into the sectoral monitoring processes to create incentives for inclusion.</td>
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<td>Existing monitoring data do not permit HMG/N to track progress on the social inclusion pillar or adequately address the needs of inclusive policy-making. There are large differences even between Janajati groups that could mean the most disadvantaged could miss being reached by supportive programming. Therefore, involving representative women, Dalit and Janajati groups ( such as the Women’s Commission, the Dalit Commission, the National Dalit Federation, the National Foundation for Development of Indigenous Nationalities and the National Federation for Indigenous Nationalities) – along with CBS in helping to accurately identify the truly disadvantaged on a scientific basis, can ensure both transparency and accountability, and effective targeting. Effective annual monitoring of inclusion outcomes in each sector is a potentially powerful tool in support of affirmative action in the areas of health, education and other critical services.</td>
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<th>6. <strong>G</strong></th>
<th>6. <strong>G</strong></th>
<th>Develop a holistic strategy for reservation and affirmative actions:</th>
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<td><strong>d e c</strong></td>
<td><strong>d e c</strong></td>
<td>? Appoint a task force to develop a road map for increasing diversity and representation of disadvantaged groups in politics, civil society and academia.</td>
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<tr>
<td></td>
<td></td>
<td>? Build a pipeline of qualified women, Dalits and Janajatis by establishing a fast-track scholarship /internship programme for</td>
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<td></td>
<td></td>
<td>A more diverse civil service can improve service delivery based on better understanding of the needs and perspectives of diverse clients. Similarly, greater representation of excluded groups in elected government at all levels will increase the legitimacy and accountability of Nepali democracy. Reservation/affirmative actions are now accepted by Nepali society and government as a means to level the playing field and increase diversity. However, modalities to achieve this objective have not been finalised, despite efforts.</td>
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the most promising girls, Dalits and Janajatis completing school level education. This will help ensure that “meritocracy” is not compromised while reserving positions for women, Dalit and Janajatis candidates in the civil service. It is important to ensure there is a “pipeline” of qualified candidates from under represented groups who can compete for reserved positions. Alternate electoral systems may also need to be explored to help ensure greater representation and voice of Nepal’s diverse groups.

7. Make donor agencies and NGOs inclusive
   * Undertake inclusion audits and inclusion reviews of their organisations and portfolios to identify exclusion and make corrections, and require the NGOs they support to conduct similar audits and share findings with government.
   * Ensure that knowledge generation on inclusion is inclusive, thereby including information from diverse groups that ordinarily do not have access to donor ears.
   Recent reports have shown poor inclusion levels at donor and NGO offices of women, Dalits and Janajatis. Greater internal diversity could help deliver more effective programs. Current donor information tends to be based on information from the traditional ‘elite’ sources.

8. Establish governance rules for local development groups to deliver inclusion
   * Enable heterogeneous and homogenous groups to empower their participants and ensure equity through preventing elite capture from dominant individuals/factions by implementing effective governance rules and monitoring and evaluation mechanisms.
   A level playing field within groups is necessary so that members from disadvantaged backgrounds equally benefit from shared group objectives and that group-based approaches live up to their potential for delivering inclusion, sustainability and empowerment for all.

9. Develop a knowledge base to inform policy debate on inclusion:
   * Encourage civil society groups to consistently generate and share knowledge and understanding on diversity and related issues, by involving both the excluded groups as well as the high-caste groups in research and exchanges.
   To get beyond inflammatory slogans to develop practical proposals for inclusion that are economically and politically feasible requires conceptual clarity, and collective thinking and debate all levels.

10. Build strategic coalitions between women, Dalits and Janajatis:
    * Build alliances for collective equal citizenship goals between the individual social movements.
    Women, Dalit and Janajati movements are currently fractured and almost independent of each other, even though they are seeking to attain similar citizenship goals. There is strength in numbers and alliances can help them to forcefully advocate and achieve their collective goals.

11. Encourage internal reform of the main political parties to make them more democratic and broadly representative.
    * Parties need to reform in order to restore their credibility by building more representative and broadly accountable organizations that include and value diversity.
Part IV: The Policy Process: What have we learned about influencing and supporting the
social change dimension of policy reform?
The ‘Implementation Gap’: Not just lack of government capacity but also a form of elite
resistance.

As documented in section II of this paper, the distribution of power has changed little
during the more than fifty years since the fall of the Rana oligarchy and the more than 15 years
after the establishment of multi-party democracy. Even before the royal takeover, the
mechanisms of democratic accountability – including the link between the voter and the party
politician – remained weak.

The variation between government statements and policy pronouncements and action on
the ground is documented in Box 2 which summarizes the promises made to the Dalits in the
Ninth Plan—and the actions that have ensued. In the development community this phenomenon,
which neither donors nor government can ignore, is politely called ‘the implementation gap’.
However, such language avoids any clear attribution of responsibility for the failure or any hint
about the reasons behind it. Our term is ‘elite resistance’—similar, but somewhat more subtle,
than the more familiar term, ‘elite capture’.

The Tenth Plan/PRSP commitment to social inclusion and good governance, and the
progress on a number of reform fronts over the last few years, are extremely encouraging.
Nevertheless, the optimism generated by the efforts of reform-minded leaders in certain parts of
government must be tempered by the experience of how things often work in other parts of the
system—especially at the middle levels of the bureaucracy and at the district level and below.
This is where the formal institutions and the progressive reform policies crafted by high level
and often reform-minded government officials interact with the dense network of informal
systems of behaviour and values based on relations of kinship, party affiliation, business
interests, caste, ethnicity and gender. Very different ‘rules of the game’ govern these relations,
and their conflicting demands and value frameworks can lead to perverse and unintended results
during the implementation process.

When it comes to changing patterns of exclusion based on social identity, the influence of
these informal institutions or ‘rules of the game’ can be especially strong. This is because these
institutions are actually systems of meaning and value through which individuals and groups
define their very identity. Policy changes at this level are not technocratic; they challenge
fundamental power relations and ways of interacting with others that follow from those relations. In terms of our earlier Figure 2, they go to the innermost core of self identity.

Those Nepali citizens (in government and in civil society) who are pushing for reforms in support of social inclusion have already begun the process of re-defining themselves in terms that emphasize the egalitarian elements in their own tradition⁴ and blend these elements with

| Box 2: Implementation status of major policy commitments for Dalits in the Ninth Plan |
|---------------------------------------------|-----------------------------|
| Policy Commitments | Implementation Status |
| Establish Higher Education Scholarship Fund | Not established |
| Allocate special seats for higher education in agriculture, forestry, engineering and medicine. | Very limited seats (2 seats per semester) in only medicine were provided during the planning period. Not implemented in other disciplines. |
| Appoint literacy mobilizers in all districts to reach Dalits and make the compulsory primary education more effective. | Not implemented. |
| Appoint at least one teacher in each secondary schools. | Not implemented yet. |
| Provide basic health service for Dalits by conducting mobile health clinics. | Not implemented. |
| Conduct special programmes like population education, child health and family planning directly targeting Dalits. | Generally Not implemented. |
| Modernise traditional Dalit occupations through training | Not initiated. (Though there was an ILO project in several municipalities) |
| Special loans will be provided to the trained Dalits to carry out their own traditional business. | Not implemented |
| Conduct special employment programmes targeting Dalits and tax exemption for those industries that employ a certain proportion of Dalits. | Not implemented |

⁴ Because Hindu culture and religion is so closely linked with patriarchal ideology, patrilineal land inheritance and with the concepts of ritual purity and pollution embodied in both the caste system and in gender relations, its predominant view of the world is a very hierarchical one. However, a more intimate knowledge of Hindu traditions reveals the presence of strong opposing egalitarian values and many rituals and social movements that recognize these values and contest the ontological validity of both caste and gender hierarchies. See Lynn Bennett, 1982, Dangerous Wives and Sacred Sisters: The Social and Symbolic Roles of High Caste Hindu Women in Nepal, Columbia University Press; Steven Parish, 1997, Hierarchy and its Discontents: Culture and the Politics of Consciousness in Caste Society, Oxford University Press.
Establish a strong and independent Dalit and Oppressed Community Council

Not established yet. Instead, the National Dalit Commission was established through cabinet decision by the end of the planning period. This body has limited autonomy, resources and power. After the end of the term of the first Commission nearly a year passed before a new Commission was appointed.

Establish District level Dalit and Oppressed Committee in all 75 districts to make recommendations and give approval for Dalit related programmes of the VDCs within districts

Not established yet

Special Provision

It will be made compulsory to expend a certain percentage of the funds provided by HMG as a grant to DDCs and VDCs for the development of the Dalit community

Generally not implemented. DDCs and VDCs were under no obligation to submit and/ or keep records of programmes and budgets related to this provision. MLD has no information on how much money was spent under this provision during the plan period.

Increasingly shared global democratic norms. However, other Nepalis from the dominant group have not yet engaged in the difficult process of examining, critiquing and re-formulating their inherited traditions in a more contemporary egalitarian frame. Many in government—and indeed in civil society—either do not understand their own ingrained habits of thought or—with varying degrees of self awareness—are simply resistant to the loss of privilege and to the deep seated changes in their own self-definition that would be required for the goal of social inclusion to be realised.

For these reasons, state sponsored reforms such as the proposed affirmative action policies, that support the shift to a more inclusive society, must be cast in a long term framework. This framework must draw in a broad spectrum of government and civil society groups to engage in a series of debates on why and how this far-reaching social change should come about. In addition to short term actions, commitment must also be made to continued with long term follow-up and a multi-dimensional approach that encompasses all sectors, draws in many types of actors and finds ways to achieve the goal that involve not only changing the formal rules, but more importantly, engaging with the deep-seated values and norms that guide the way people
practice these rules.

Many who hold power under the present policies and institutional set-ups do not welcome change and seem to be able to call on many informal networks to block them in one way or another. One example of this is the tortuous path that the National Dalit Commission has had to follow in its efforts to get formal legal recognition. Four years after it was established, the NDC still has no legal underpinning, no independent budget and is largely ignored. Such failure to follow through or ‘implementation gap’ is certainly not unique to Nepal; but the degree to which informal power can successfully thwart the stated intentions of officially sanctioned policy change does seem to be a serious challenge.

Though it is more comfortable to think of the implementation gap as due to ‘lack of capacity’ and therefore something that can be addressed through painless donor funded training, study tours and new computers, the major causes of poor implementation probably lie deeper and lead us once again back to the reluctance of those who have long benefited from the status quo to accept real change. *The impunity and ease with which so many of those in positions of authority can circumvent formal rules and policies suggest that powerful informal systems, behaviours and norms are still very much at work—and that groups whose objectives differ from those officially espoused by the state still find it easy to call on these systems.*

While the insurgency is at least partially to blame, the halting progress of decentralization is a powerful example of this kind of elite resistance. Laws have been passed giving wide authority and responsibilities to local bodies and directing the transfer of funds to local governments. Yet more than seven years after the passage of the Local Self Governance Act, the central line ministries continue to control the vast majority of manpower and financial resources needed for many public services that have been officially acknowledged as most effectively delivered by lower tiers of government that are much closer to the clients.

**Closing the ‘Implementation Gap’: A focus on the mechanisms of accountability**

Many of the GSEA policy recommendations presented in the previous section have to do with closing the ‘implementation gap’. Most are all in some way or another focused on strengthening the mechanisms of political and administrative accountability. The most pressing need is for *restoration of elected government at all levels—hopefully after thorough internal party reforms as well as reforms in the electoral system to improve representation and*
accountability to the electorate. Linked to this is the need for affirmative action in the civil service to increase the diversity of those who make the critical decisions about how policy is implemented. The final element is to continue the PRSP emphasis on close monitoring of the linkage between expenditures and outcomes – and making sure that inclusion is a required outcome. This is being done through the NPC’s unrelenting focus on the Poverty Monitoring and Analysis System (PMAS) as a tool for results based budgeting tied to the MTEF. The PMAS can be strengthened by insisting that sectoral ministries also report progress disaggregated by caste, gender and ethnicity and by using a range of available social accountability tools to increase civic involvement and instill greater transparency in the allocation and use of public resources at the local level. Such mechanisms have the added advantage of offering a check to the threat that local elites may capture the lower tiers of elected government.

As noted earlier, during the Panchayat era Nepal’s great ethnic, caste, linguistic, and religious diversity was seen as a threat to ‘national unity’. Some still see this diversity as a factor underlying the current conflict. However, recent research shows that diversity does not necessarily destabilize the state. While some studies (Easterly and Levine 1997; Collier and Gunning 1999) have found links between high levels of ethno-linguistic ‘fractionalization’\(^5\) and the risk of low growth and conflict, another study by Collier using the same data combined with data on governance found an important difference. He found that high levels of ethnic diversity were correlated with low or negative economic growth and high levels of conflict only when accompanied by weak legal and political protection of political rights and civil liberties (Collier 1998). This suggests that ethnic diversity itself is not necessarily inimical to political stability and strong economic performance as long as there are institutions in place that ensure equal access to educational and economic opportunities for all groups and that permit disagreements between different groups to be worked out in the political arena—rather than through violent conflict.

From this perspective, the ‘implementation gap’ itself can be seen as a manifestation of one major underlying cause of the conflict. Informal social and political institutions continue to block the actual realization of government’s stated intentions to have resources and decision-making power flow more equitably to excluded groups and remote regions.

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\(^5\) Fractionalization is measured in terms of the probability of two randomly drawn citizens being from different ethno-linguistic groups. Collier and Gunning report that in Africa, where conflict is extremely high, the aggregate score is 67.6 (with 100 being the highest diversity) compared with 32.7 for other LDCs.
To put it another way, violent conflict erupts when the formal institutions of democratic governance are not yet strong enough and deep enough to contain and set limits to the old ‘rules of the game’. Nepal is currently in what Murshed and Gates call “the intermediate or transitory stage between autocracy and democracy (when) the risk of internal conflict is the greatest’ (Murshed and Gates 2003). In their discussion of the causes of the Nepal conflict, they refer to the U-shaped relation between democratic institutions and the incidence of civil war demonstrated by Hegre et al (Hegre, Havard, Ellingsen, Gates and Gleditsch 2001), which showed that “the probability of civil conflict is lowest both in established, well functioning democracies, and perfect autocracies.”

Nepal began this transition very recently; some modern institutions were established during the first 40 years. The formal institutions of democratic governance have not yet reached a level where they can fully contain and set limits to the old ‘rules of the game’. This intermediate stage is characterized by increased risk of internal conflict.

Box 3: Ingredients for influencing through the policy research process:

- **Choosing the team.** While it is good to bring in international perspectives on some issues, it is even more important to engage local researchers for most of the work and to go beyond the “usual suspects” – those who generally do consultant work for the Bank and other international donors. In the GSEA we did use some scholars well known in development circles in Nepal, but we also drew on academics, activists, journalists and writers who did not always produce a standard product, but who had independent ideas, deep commitment to the issue and credibility as concerned citizens. We also went out of our way to make sure the team was diverse in terms of caste, gender and ethnicity. All of this meant that we had to have an excellent editorial team to pull the diverse contributions and the different styles together into a single report.

- **DFID/WB Partnership** The collaboration between DFID and the Bank brought the comparative advantages of each agency together, and underlined the seriousness with which both viewed the issue of social exclusion.

- **Taking the time and paying attention to the process with continuous stakeholder consultation, debate and dissemination.** Twelve consultation workshops were held at various points during the process with different stakeholder groups and team members gave many informal presentations on the inclusion framework.

- **Developing Data Stories** Narratives are important, but they are much more powerful when backed by numbers. National data sets were re-analyzed by caste, gender and ethnicity and primary research was carried out to generate these data stories.

- **Logical and more manageable classifications of caste and ethnic groupings.** The 103 different social groups included in the last Census were re-grouped into a smaller number of 7 major groupings and the “other” category which had accounted for 20 percent of the population (and most of the most vulnerable ethnic groups with less than 10,000 members) was reduced to only 1 percent. This grouping has been adopted by the Central Bureau of Statistics.

- **Working on Multiple Levels from the National and Sector Policy level to the nitty-gritty of implementation** A key here is for team members to be able to contribute to all aspects of the country programme from the inclusion perspective. Social Inclusion became key pillars of both the DFID CAP and the WB CAS. The messages of the GSEA were reinforced in the PRSC’s concern with Affirmative Action in the civil service and in the Health Sector and Primary Education SWAs where indicators of inclusive access have become key to tranch release.

- **Internal Outcome Monitoring** Based on the GSEA conceptual framework, DFID has developed and implemented a system of Livelihoods and Social Inclusion (LSI) Monitoring for all of their CAP programmes. All DFID supported programmes now report on what they are doing to a) increase assets and services for the excluded; b) increase the voice and influence of the excluded and; c) change the “rules of the game” in terms of policies and implementation mechanisms that create a more level playing field for women, Dalits and Janajatis.
years after the end of the Shah/Rana regime, and others only since 1990. Moreover, while this discussion emphasizes the incompleteness of the transition, it should also be noted that by and large civil liberties have been protected in Nepal since 1990. Despite the present period of great uncertainty, there has been over a decade of vibrant press and freedom of association that allowed, for example, the flourishing of civil society groups focused on ethnic, caste and gender inequities. The discourse on inequality, human rights and governance has become much more sophisticated. The expectations of instant utopia that followed the coming of democracy in 1990 have been tempered by greater realism about what the state can and cannot do, and by better understanding of the hard economic constraints Nepal faces—despite what has often seemed to the public like a limitless supply of donor funding.

Some important foundations of democratic governance have been laid in the past 14 years, and the major strength of the Tenth Plan/PRSP is that it seeks to build on these. One such foundation is the Medium Term Expenditure Framework (MTEF), which ties the entire PRSP exercise to the discipline of a rolling three year budget and annual budgeting exercises. The second is National Planning Commissions’s effort to develop a strong Poverty Monitoring and Analysis System (PMAS) that combines rigorous periodic national surveys, real time reporting from the line ministries, and social accountability mechanisms such as client satisfaction surveys and social audits. These are the tools that will allow government to move to results-based budgeting. Although the modalities have not all been worked out, it is important to note that the PMAS provides for the collection and analysis of data by caste, ethnicity and gender—specifically to track performance on the PRSP’s inclusion pillar.

**Combined with freedom of the press and freedom of association, these emerging systems for the allocation, management and tracking of public funds can also be the critical foundations of accountability and good governance.** Tools like the MTEF may seem rather technocratic and uninspiring. Citizens’ report cards and social audits may sound like the latest civil society fad. However, in the end such approaches may be essential to both poverty reduction and sustainable peace in Nepal because they are on the critical path to a government that is accountable, that delivers on its commitments and ensures that all citizens are treated equitably.