

# Electoral systems and political representation in post-war Nepal

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The Maoist insurgency in Nepal was an ideological conflict between the government and the Maoists, but it was also driven by the social and political exclusion of large identity groups.

The *Comprehensive Peace Accord (CPA)* signed on 21 November 2006 and the Interim Constitution of January 2007 included a number of elements for more equitable sharing of power, such as devolution of authority (a federal structure), fair representation of groups, decision-making rules (including veto powers), and coalition governments.

These elements were covered either as temporary directives for the interim period up to when a new constitution would be promulgated, or as a permanent basis for the formation of the new state. The CPA referred back to previous accords, including the agreement of 8 November 2006 (*Six-Point Agreement*), which institutionalised an interim government and parliament in which the Maoists were allocated 73 of the 330 seats – equivalent to approximately 22 per cent representation.

The multi-party democracy that had been introduced in the 1990 Constitution was based on a first-past-the-post (FPTP) voting system, with one candidate elected per constituency. Such a system gave an advantage to the largest parties – with parties also frequently nominating the most electable candidates, which in Nepal often means men from social elites. Representatives of marginalised groups – Janajatis (indigenous groups) and Madhesis (from the Tarai plains) – succeeded in being elected, but not in proportion to their population. Dalits ('low caste'), some 'middle-caste' Madhesis, and a large number of Janajati groups were largely excluded.

The peace agreements prescribed a more inclusive electoral system, but the parties were unable to agree on one that was purely proportional. The resulting compromise, first recorded in the 8 November 2006 agreement, was for a mixed system for the election of a Constituent Assembly that was to both write a new constitution and act as interim parliament. The electoral system was to consist of both FPTP and proportional representation (PR), with the latter intended to increase the representation of otherwise excluded or marginalised groups. This article discusses how post-war political representation has progressed in the interim period and in the 2015 Constitution.

## Interim period

The electoral system for the Constituent Assembly described in the Interim Constitution referred to the excluded groups that had been identified in the CPA. The mixed system it specified consisted of 240 members elected in single-member constituencies by FPTP and 335 elected through PR. Article 63(4) described how inclusiveness would be pursued for each system: in selecting FPTP candidates political parties would 'take into account the principle of inclusiveness', while in selecting PR candidates they would 'ensure proportional representation of women, Dalit, oppressed communities/indigenous peoples, backward regions, Madhesi and other groups, as provided in law'.

The electoral law of June 2007 laid out requirements for candidate lists and how the results of voting would be translated into seats. However, 'other groups' was interpreted to mean all groups not explicitly identified, which included the elite hill castes that had dominated Nepali political life for centuries, and not as 'other excluded groups', such as Muslims. In other words, the hill castes that would already be grossly over-represented through FPTP were also given a quota in the PR election.

Two elections were held for two different Constituent Assemblies in the interim period, in 2008 and 2013. Both these polls confirmed that hill (effectively 'upper') caste men have a large advantage in the FPTP election, whereas the quotas in the PR elections worked to some extent as intended. Dalits and women won larger representation in the PR elections, although the PR quota for hill castes and men effectively capped their representation. The hill castes increased their share of FPTP candidates from 41 to 55 per cent between 2008 and 2013. In PR, they got around their proportional share, as expected. Dalits won 2.9 per cent of FPTP seats in 2008 and just 0.8 per cent

in 2013, showing that they need special arrangements to support their parliamentary representation.

While the analysis broadly shows hill castes are politically included, and Dalits and Muslims excluded, closer and longer-term study (see Table 2) also reveals significant variation in inclusion or exclusion within Janajati groups and Madhesi castes. The 2011 Census enumerated 125 castes or ethnic groups that can be classified within these larger categories. Detailed examination of these data by the author (see Vollan 2015) shows how these groups have fared in FPTP elections since 1991, and which groups need affirmative action in national elections and which do not.

The analysis shows that the included groups (ie hill castes as well as some Janajati and some Madhesi groups) that make up around 55 per cent of the population won between 87 and 91 per cent of seats in four of the five FPTP national elections between 1991 and 2013. The exception was in 2008, when their share dropped to 78 per cent, mainly due to the strong showing by the Maoists, who had a more diverse set of candidates even in the FPTP part of the election. The excluded groups who make up the remaining 45 per cent of the population, on the other hand, won between nine and 13 per cent of the seats, again except in the 2008 when they won 22 per cent – although this was still only around half of their proportional share.

This suggests that the proportional quotas would have been more effective if targeted towards the politically excluded groups, rather than to all groups, including the hill castes. Since the quotas in 2008 and 2013 were extremely complicated for parties to adhere to, more targeted quotas



Voting during the second Constituent Assembly election. © Shruti Shrestha

would also help simplify the system. One alternative would have been to simply require 45 per cent of those elected to come from politically excluded groups.

## 2015 Constitution

The 2015 Constitution was an opportunity to simplify the representation of groups in the PR elections by defining special representation only for otherwise excluded groups. There are various possible explanations as to why this did not happen. Madhesi castes and Janajatis might have been afraid that their total share would go down if only those subgroups in need of a quota were given one. There was also clearly an element of the ‘cream’ of each group protecting their existing privileges. For instance, the Yadavs of the Madhesi caste group would argue strongly for Madhesi representation in comparison to hill castes,

**Table 1: Share of group representation in Constituent Assembly, 2008 and 2013 (%)**

Group	2008				2013				2011 Census share of population
	FPTP		PR		FPTP		PR		
	Share total	Share women							
Hill caste	41.3	6.7	28.1	13.4	55	0.8	30.4	14.3	31.3
Hill and mountain Janajati	25.4	2.9	26.9	13.4	19.2	0.8	26.6	12.5	27.2
Tarai Janajatis	7.1	0.4	8.4	3.9	8.8	1.3	9.6	5.4	8.7
Madhesi caste	20.8	1.3	20.6	9.3	14.2	0.8	18.2	8.4	15
Hill Dalit	2.5	0.8	8.7	3.9	0.4	0	7.8	3.9	8.6
Madhesi Dalits	0.4	0	4.5	3	0.4	0	3.3	2.1	4.7
Religious groups (Muslims and Sikhs)	2.5	0.4	3	1.2	2.1	0.4	4.2	1.8	4.5
Total	100	12.5	100	48.1	100	4.2	100	48.4	100

**Table 2: Representation of excluded and included groups from FPTP election results 1991 to 2013, against the population ratio (2011 Census)**

Group	1991	1994	1999	2008 FPTP	2013 FPTP	Share of the population according to the census 2011
<b>EXCLUDED GROUPS</b>						
Hill Dalits	0.5	0	0	2.5	0.4	8.6
Hill and mountain Janajatis, excluded only	5.9	5.4	4.9	9.2	5.4	16.1
Madhesi castes, excluded only	2.0	1	4.9	5.4	3.8	9.2
Madhesi Dalits	0	0	0	0.4	0.4	4.7
Tarai Janajatis, excluded only	0.5	0	0.5	1.7	0.8	2.1
Religious groups (Muslims and Sikhs)	2.4	2.4	2	2.5	2.1	4.5
<b>Total excluded groups</b>	<b>11.2</b>	<b>8.8</b>	<b>12.2</b>	<b>21.7</b>	<b>12.9</b>	<b>45.1</b>
<b>INCLUDED GROUPS</b>						
Hill caste	53.7	62.4	58.1	41.3	55	31.3
Hill and mountain Janajatis, included only	19.5	12.7	16.6	16.3	13.8	11.2
Madhesi castes, included only	7.3	9.3	9.3	15.4	10.4	5.8
Tarai Janajatis (only Tharus), included	8.3	6.8	3.9	5.4	7.9	6.6
<b>Total included groups</b>	<b>88.8</b>	<b>91.2</b>	<b>87.8</b>	<b>78.3</b>	<b>87.1</b>	<b>54.9</b>

but would be less willing to share their representation among all 28 Madhesi castes.

The new constitution has retained a mixed parallel system, but now with a majority (60 per cent) of FPTP seats, which reduces its inclusiveness. The principle of quotas for everybody was kept intact for PR while expanding the list of groups to include Muslims and Tharus – the latter being another politically excluded group. Without removing the privileged groups from the quota system, the new PR provision in fact makes the system even more complicated, while rendering the targeting of excluded groups ineffective.

## Conclusion

The quota provisions introduced in the Interim Constitution made the Constituent Assemblies of 2008 and 2013 more diverse than any previous parliament in Nepal, particularly for Dalits and women. Group consciousness was high in the first Constituent Assembly, and women and Janajatis formed strong

caucuses across parties. Elements of inclusion were prominent in the thematic committees drafting concept papers to inform assembly deliberations in 2008 and 2009. But, as time went by, and the final provisions were negotiated, inclusiveness and representation became less important. It remains to be seen if the complicated quota system will be implemented in good faith and will be sustainable over time.

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