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Informal Institutions and Exclusion in Democratic Nepal

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Informal Institutions and Exclusion in Democratic Nepal

Informal institutions, or conventions or codes of behavior, play significant roles in constraining human behavior and have important political consequences. Despite much focus on institutionalism, the role of informal institutions in political behaviors and outcomes has not been scrutinized thoroughly in political science. This paper investigates the contribution of informal institutions to the political exclusion of marginalized groups like Dalits, indigenous nationalities, Madhesi, and women in democratic Nepal (1990-2002). Scholars have pointed out the role of formal institutions like the unitary state and the first past the post electoral method in the political exclusion of these groups in Nepal. However, formal institutions do not account for all the exclusion. Not a single Dalit was nominated to the cabinet during 1990-2002. This was not due to formal restrictions but because of informal norms like the caste system that guide political and social actors' behavior. In this paper I will discuss various ways informal institutions interacted with formal institutions during the democratic years to produce the political exclusion of marginalized groups. Specifically, I will analyze the role of patriarchy on the exclusion of women, hill nationalism and the exclusion of Madhesi, and caste system and Bahunbad and the exclusion of indigenous nationalities and Dalit. Analyses of informal institutions are important because even if formal institutions are changed, exclusion may still continue because informal institutions persist for long periods.

Despite the pervasiveness of informal institutions and their widespread influence, they have largely been ignored in the analysis of political behavior and outcomes. Since formal institutions have failed to adequately explain many political behaviors and outcomes, informal institutions have begun to attract the attention of political scientists (O'Donnell 1996; Lauth 2000; Helmke and Levitsky 2004). Due to the new nature of the subfield, however, the role of informal institutions, in many issues and phenomena are yet to be rigorously analyzed. In this paper, I analyze the role of informal institutions in the political exclusion of marginalized groups using a case study of Nepal during its 1990-02 democratic years.[1]

This article will engage with, and contribute to scholarship in fields of democratization, institutions, and Nepal studies. It will contribute to the larger scholarship on democratization by attempting to explain the continuation of political exclusion after democratization begins. In the much accepted conceptualization of democracy, Dahl (1971) considers inclusion/participation as one of the two dimensions of democratization (the other being contestation). Over the years, more countries have democratized and more people have obtained franchise rights (Huntington 1991). However, despite expansion of adult enfranchisement, many ethnic (national, linguistic, religious, caste, racial) groups and women continue to be excluded from governance in countries around the world (Gurr 2000). Scholars have pointed out that formal majoritarian institutions like the first past the post (FPTP) electoral system and unitary state structures exclude minorities even in democracies (Horowitz 1994; Lijphart 1977). However, as the Nepali case illustrates below, formal institutions do not explain all levels of exclusion in polities. This paper will demonstrate that informal institutions influence the behavior of political and social actors, thus helping to explain the ironic situation of exclusion from governance despite formal inclusion at the franchise level.

The 1990 Constitution of Nepal guaranteed considerable political rights, civil liberties, and

1. Nepal's first experience with democracy was from 1951-60. A monarchical regime ruled from 1960-90 after King Mahendra dismissed an elected government in 1960. Democracy was restored in 1990 and lasted till October 2002 when King Gyanendra dismissed the elected government. He assumed direct leadership of the executive in 2005 but was forced to give up power in April 2006 by a popular movement. The monarchy was eliminated in 2008 by the newly elected Constituent Assembly.

individual freedom. Moreover, it ensured reasonably free and fair, periodic elections based on universal adult franchise. What then explains the wide and deep level of political exclusion that continued in the polity? I begin by briefly reviewing exclusion in democratic Nepal.

EXCLUSION IN DEMOCRATIC NEPAL, 1990-2002

Nepal, which is a country of more than sixty ethnic groups, one hundred languages, and half a dozen religions, has witnessed exclusion, discrimination, and domination of various groups in many spheres including socio-cultural, economic and political. The caste hill Hindu elite (CHHE or CHHEM when women are omitted) which consists of the "upper" caste Chhetri, Bahun, Thakuri, Sanyasi and "upper" caste Newar of the hills,[2] are numerically a minority; yet, they overwhelmingly dominate the political, social, and economic realms in Nepal. The indigenous nationalities (adibasi janajati), Dalit (the traditional 'untouchable' Hindus) and Madhesi[3] (residents of the plains who share culture with North Indian societies) collectively constitute more than two thirds of the population but were discriminated against and excluded from various socio-political realms.[4]

Govinda Neupane (2000) showed the overwhelming dominance of the CHHE and Newar in twelve influential arenas in 1999: the executive branch, parliament, the judiciary, public administration, the security forces, politics (i.e. local government and party leadership), leadership of academia, industry and commerce, civil society, and cultural associations. Jointly the CHHE and Newar were 36.37 percent of the population according to the 2001 census but held 80 percent of the State's leadership positions in important arenas (e.g. executive, legislature, judiciary, public administration and security elite) in 1999. Their domination included holding 95 percent of the position in the civil administration, 91 percent of the judiciary, 80 percent of positions in the constitutional commissions, 72 percent of positions in the cabinet, and a 68 percent representation in Parliament (both houses). Even the relatively progressive realms like academia, the media, and civil society had a negligible presence of marginalized groups. The combined CHHE and Newar dominance in the leadership of professional bodies of cultural, academic, science-technology, and civil society was 95, 89, 87, and 91 percent respectively. Overall, the hill Dalit (7.09 % population) had 0.3 percent representation in the twelve sectors while the indigenous nationalities (21.85% - not including Newar and Tarai indigenous nationalities) and Madhesi (32.33% - including Madhesi Dalit and Tarai indigenous nationalities) had 7 and 11 percent representation respectively in the twelve influential sectors (Neupane 2000).

Likewise, women were severely underrepresented in the cabinet and the Supreme Court had no female justices during the 1990s. The representation of women in the Parliament and central committees of major political parties never crossed six and ten percent respectively. Representation in the bureaucracy was around seven percent and less than one percent at the first class officer level and above (The World Bank and DFID 2006).

The extreme exclusion prevalent in Nepal can be better understood with the example of the Dalit. Except for one person in the teaching and academic leadership and four members in the Upper House of the Parliament, which is relatively powerless, there was no Dalit in any leadership position in the remaining ten social, political, and economic sectors Neupane (2000) investigated.

One of the consequences of political exclusion from influential decision making bodies was the absence of political reform that could address the deep discrimination and exclusion faced by marginalized groups. The absence of reforms resulted in the continuation of inequalities and exclusion because no new policies meant the continuation of the previous policies and discriminatory practices. The inequalities and exclusion alienated the marginalized groups and exacerbated the armed Maoist conflict initiated in 1996 that eventually contributed to the breakdown of democracy (Lawoti 2009) by contributing to a higher participation of some of the marginalized groups. Likewise, a large number of armed Madhesi and indigenous organizations have

2. The Newar, a multi-caste indigenous group from the Kathmandu Valley, make up 5.48 percent of the population and have enjoyed highly disproportionate access to socio-economic and political power, mostly by the 'upper castes' within the group. However, as a group it has faced linguistic and other cultural discrimination.

3. CHHE, indigenous nationalities, and Dalit were 30.89, 36.31 (including Newar) and 14.99 percent of the population respectively in 2001. Madhesi are 12.30 percent if only non-Dalit caste Hindus are counted and they are 32.29 percent when Tarai indigenous nationalities (8.96 %), Tarai Dalit (6.74 %), and Muslim (4.29 %) are counted. Some Tarai Dalit and indigenous nationalities and Muslim prefer to identify as Madhesi while others reject the Madhesi identity. Organizations of Tarai indigenous nationalities and Muslims launched street movements in early 2009 to protest their categorization as Madhesi by the government under the pressure of the 2007 and 2008 Madhesi movements. Within the Madhesi, the 'upper' caste groups are less excluded from socio-economic and political power.

4. The Dalit, indigenous nationalities, Madhesi and women are not homogenous groups and the level of exclusion and discrimination varies among different subgroups. The Dalit are not only divided as hill and Tarai Dalit but caste stratification also exists among them. Likewise, the Madhesi are divided into various caste, religious (Hindu, Muslim, and animist), linguistic, and ethnic divisions (indigenous versus caste groups). The indigenous nationalities are divided along ethnic, linguistic, and religious lines while women are divided along caste, ethnic, religious, and regional identity. However, members of different categories face some common discrimination. For example, the Dalit face the harmful consequences of untouchability, indigenous nationalities suffer linguistic, religious and cultural discrimination, the Madhesi endure linguistic discrimination and unequal treatment as citizens, and women are confronted with patriarchical discrimination (for societal complexity, see Bista 1996; Lawoti 2005; Bhattachan 2008; Gurung 1998).

emerged after democracy was restored in 2006 to fight against inequality and exclusion (Pathak and Uprety 2009).

Formal and Informal Institutions

Institutions significantly affect different aspects of politics, including representation and quality of democracy. I follow North (1990: 3) in defining institutions, which are "the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction." The new institutionalism that emerged in the eighties in political science analyzed the effect of formal institutions or "rules and procedures that are created, communicated, and enforced through channels that are widely accepted as official." However, formal institutions do not explain major political behaviors such as clientelism, corruption, executive-legislature relations, etc. (Helmke and Levitsky 2006: 5; O'Donnell 1996). The fact that corruption occurs despite formal restrictions is ample proof that formal institutions are inadequate in explaining some political behaviors. Hence, despite the difficulties in studying informal institutions because by definitions they are unwritten and difficult to identify and measure, they should be investigated to fully understand the causes and consequences of political phenomena, especially because they are pervasive while formal institutions make only "a small (although very important) part of the sum of constraints that shape choice" (North 1990: 36).

Informal institutions are "typically unwritten codes of conduct that underlie and supplement formal rules" (North 1990, 4). These are "created, communicated, and enforced outside of the officially sanctioned channels" (Helmke and Levitsky 2004, 725). However, to "be considered an informal institution, a behavioral regularity must respond to an established rule or guideline, the violation of which generates some kind of external sanction" (Helmke and Levitsky 2006: 6-7).

Informal institutions interact with formal institutions to produce varied outcomes. Lauth (2000) discusses three types of informal institutions based on their interactions with formal institutions: complementary, substituting and conflicting. Helmke and Levitsky (2004, 2006) expand Lauth's typology by classifying conflicting informal institutions into accommodating and competing subgroups and present four types of informal institutions based on outcomes (convergent versus divergent) that result upon interaction with formal institutions (effective versus ineffective). Complementary informal institutions "enhance the efficiency or effectiveness" of effective formal institutions (Helmke and Levitsky 2006: 13). Substitutive informal institutions achieve what formal institutions were designed, but failed, to achieve" (ibid: 16) because the formal rules are rarely enforced. The outcomes are convergent in both the cases. The other two types of informal institutions produce divergent outcomes. Competing informal institutions coexist with ineffective formal institutions and "structure incentives in ways that are incompatible with the formal rules…[and] generate outcomes that diverge markedly from what is expected from formal rules" (ibid: 15). Accommodative informal institutions "create incentives to behave in ways that alter the substantive effects of formal rules, but without directly violating them." They "contradict the spirit, but not the letter, of the formal rules" (ibid: 15).

The analysis of informal institutions is important because, among other reasons, their affects persist for a long time. Some informal rules, in fact, may endure changes in formal rules, even though they might slightly change, because informal institutions are culturally derived[5] and cultural norms take a longer time to change (North 1990). Thus, despite the ongoing political changes in Nepal that began in April 2006, and the dismantling of some of the exclusionary formal institutions (such as Hindu state and discriminatory constitutional articles) and the adoption of inclusive formal structures in the "new Nepal," exclusion could decrease but may also continue due to the influence of discriminating informal institutions.

Political Exclusion and Institutions in Nepal

Scholars have established the role of formal institutions like the unitary state, the FPTP electoral method and constitutional articles in the continued exclusion of marginalized groups in Nepal even after democracy was restored in 1990 (Lawoti 2005; Khanal 2004; Bhattachan 1999). The state was formally declared Hindu and it treated non-Hindu and 'low' caste Hindus unequally. The unitary state favored the dominant group. As the largest group, the CHHE controlled the central government and formulated public policies based on its values and interests. The unitary state facilitated the imposition of such public policies over other groups around the whole country. The formal institutions, however, explain only some part of the political exclusion of the Dalit, indigenous nationalities, Madhesi, minority religious groups, and women. For instance, not a single Dalit was nominated to the cabinet during the entire 1990-02 democratic years. Some of the cabinets had no women while only one or two women were included in others. These exclusions and under representations were not due to formal restrictions. Had ethnic oriented parties been awarded seats proportionally, based on the popular votes they received in the parliamentary elections of 1990s, they would have received more seats than under the FPTP electoral method; however, the marginalized groups would still have been heavily underrepresented in the Parliament. During the 1999 parliamentary election, the Sadbhawana Party (Nepal Goodwill Party or NSP) of the Madhesi and Nepal Jana Mukti Party (Nepal People's Liberation Party or NJMP) of the indigenous nationalities

5. Formal institutions may also be culturally derived but not always so. Formal institutions that are derived from the local culture could be enduring and very effective as they are enforced through state power and societal norms.

would have received seven and three seats respectively if a pure proportional method had been employed instead of five and none respectively under the FPTP. The FPTP electoral method contributed in the exclusion but it is not responsible for all the exclusion. Informal institutions help to explain the unaccounted part of this political exclusion.

Although not articulated as informal institutions, informal institutions have been, nonetheless, analyzed as a cause of marginalization of various caste and non-caste groups in Nepal. A lot of anthropological work that examined the relationship among high caste Hindus and others have discussed the role of caste structure in the marginalization of the latter groups (Guneratne 2002; Caplan 1972; Caplan 1970; Gaige 1975). A number of works (Sharma 1977; Gurung 1988) analyze the phenomenon of what Srinivas (1956) called Sanskritization. Jones argues that even though the term may indicate upward mobilization as suggested by Srinivas, in eastern Nepal it in fact harmed the Limbu, who were not part of a caste system by incorporating them in the caste systems in a status lower than that of the Bahun and Chhetri, even though they were autonomous group outside the caste system. Others have discussed how the caste system has excluded various lower and non-caste groups and women (Yakharai 1996; Cameron 1998). Bista's classic work on the underdevelopment of Nepal also discusses various informal institutions like chakari (sycophancy), afno manche (inner circle) etc. that contributed to the marginalization of indigenous groups and lower castes. However, Bista (as well as the work of others) draws mainly on materials from non-democratic periods or they do not explicitly analyze the phenomena from an institutional framework. These works also do not look at the effect of institutions on democratic politics and their consequences on marginalized groups. Furthermore, works to date on Nepal do not look explicitly at how formal and informal institutions interacted to produce varied outcomes.

My assumption is not that informal institutions do not exist in democracy. Rather, I am interested in whether institutions, and what type of institutions, affect democratic polities and in what ways. One would assume that as different sections of the society get more political rights and civil liberties in a democratizing polity, their situation would improve as the groups begin to assert and use their rights. Indeed, the mobilization of marginalized groups exploded after 1990 in Nepal. However, that did not lead to increases in their representation in the Parliament, cabinet, bureaucracy, and judiciary. The indigenous nationalities saw a decline in their representation in the Parliament and bureaucracy compared to the earlier democratic (1959-60) and non-democratic (1960-1990) period. The Madhesi and Muslim representation increased slightly in the 1991 parliament but then declined in the next two Parliaments, and not a single Dalit was nominated to the executive in the entire period. Likewise, no one from the Dalit, Muslim and the non-Newar indigenous groups were nominated to the Supreme Court (Lawoti 2008; Neupane 2000). Women did see incremental increases in representation in various sectors but this could have been due to temporal factors – women's representation had been slowly increasing for some years (Acharya 1994).

I have extensively investigated the role of formal institutions in this exclusion (Lawoti 2005, 2007, 2008); but, as was pointed out earlier, formal institutions do not explain all the deep rooted exclusion of marginalized communities. In this article, I argue that informal institutions both separately and sometimes as a result of interactions with the formal sector, contributed significantly to the exclusion of Dalits, Muslims, and others from the political process. I will discuss particular informal institutions that have contributed to the exclusion of the Dalit, indigenous nationalities, Madhesi, Muslims, and women during Nepal's democratic interregnum of 1990-2002.

NOTE ON METHODOLOGY AND SCOPE

This paper draws on data obtained during my dissertation research in 2000-2001 which explored the role of political institutions in the exclusion of various groups in Nepal and from subsequent regular field visits. Initially, I did not analyze exclusion from an informal institution framework even though I had collected data on stereotyping, the impact of caste etc. The data is based on interviews with leaders, common people and activists from the Dalit, indigenous nationalities, Madhesi, Muslims, and women as well as the Bahun and Chhetri. It also includes focus group interviews, archival research, an extensive literature review, and the observations about exclusion in Nepal for a decade, seen from a native eye.

My aim here is to go beyond an ethnographic study of particular groups and compare exclusion of various groups using informal institutions as my independent variable. By doing this, I hope to establish the role of informal institutions more firmly than a case study of a single group can. A rich ethnographic study peppered by thick description may tell us a lot about certain phenomena regarding a group but the generalizability of such a study is questionable. Generalizability increases if the same phenomenon is found in more cases (King, Keohane, and Verba 1994). By looking at the impact of informal institutions on the political exclusion of the Dalit, indigenous nationalities, Madhesi, and women, I hope to firmly establish the contribution of informal institutions to this process. This article does not aim to discuss all forms of exclusion faced by different groups, or all aspects of informal institutions, nor exclusion of all categories, such as class. To some extent, however, class and identity overlap in Nepal. For example, most Dalit are poor. Even though an investigation of class dimension would be interesting, it is beyond the confines of this article.

Furthermore, this article will not analyze how the marginalized groups resist domination. This does not mean that I assume that the marginalized groups are passive recipients of the informal institutions' impact. In fact, marginalized groups have engaged in covert and overt

resistance and rebellions. Academics have analyzed a few past overt resistance by ethnic groups (Lecomte-Tilouine 2003; Gaenszle 2009), religious sects (Uprety 1992) and women (Aziz 1993). Other instances of resistance have been mentioned (Gurung 2004; Caplan 1970; Jones 1976; Lawoti 2007; Regmi 1995; Neupane 2000) but have not been described and analyzed in detail. Likewise, as mentioned earlier, the post 1990 years saw large scale mobilizations of people along lines of identity (Lawoti 2007, 2005; Gellner, Pfaff-Czarnecka, and Whelpton 1997; Bhattachan 2000), including gender and class, e.g. the Maoist rebellion (see Hutt 2004; Lawoti and Pahari 2009).

Hangen (2005; 2007) has pointed out how non-Hindu Gurungs have boycotted the Hindu festival of Dashain as a protest and formed their own ethnic parties to fight against Hindu domination and exclusionary practices. Holmberg (2000) has shown that the Tamang engaged in the derision of the ruling elite during their religious rituals in an attempt to retain group autonomy and symbolic power. Maharjan (2007) discusses participation in Theravada Buddhism as a way of protest by Newars in the Kathmandu valley. Additionally, Guneratne (2002) shows how different language speaking communities created a Tharu identity to encompass a larger population in their struggle against the state dominated by hill Hindus.

Overt direct and indirect opposition, however, are not the only forms of resistance. As Scott (1985; 1989) has amply demonstrated, common people engage in everyday resistance to subvert domination. They lie about things if they cannot openly rebel, remain non-committal, arrive late, make excuses, engage in malicious gossips about powerful people, embrace passive noncompliance, evade and deceive, drag their feet, encroach upon lands controlled by the local elite and the state, pilfer, commit sabotage and arson, and desert the military during war. Agarwal (1994, chapter 9) discusses a variety of ways women resist, bargain for or protect their interests including hiding their income and cash in multiple places to prevent husbands from discovering and spending all their savings, acting as if spirits have possessed them to make demands and complaints, withholding sex, telling jokes and singing songs to express dissatisfaction and make fun of men, threatening to return to their natal home, playing off male affines and consanguines against each other, refusing to speak, and eating good food when males are not around. One can plausibly argue that marginalized groups in Nepal are also engaged in various forms of covert resistance.

These overt, covert and indirect forms of resistance are all very interesting activities and they have contributed in protecting the rights of marginalized groups. However, my aim is not to explicate how such overt and covert resistance contributed to the protection of the interests of these groups, including in their political representation. My aim instead is to see how and in what ways informal institutions may have contributed to the political exclusion of various marginalized groups. The assumption I make in this article is that marginalized groups may have resisted but that the informal institutions apparently overcame their resistance to contribute to their continued exclusion and domination. Not analyzing their forms of resistance does not weaken my findings. That their exclusion continues despite their resistance supports my thesis that informal institutions matter.

PATRIARCHY AND EXCLUSION OF WOMEN

Women in Nepal have been legally excluded in political and social realms (Tamang 2000; FWLD 2000) but informal norms and practices have also played a major role in their exclusion. A good illustration is the low percentage of voting by women. According to the UNDP's Human Development Report (2004) (Annex 2.1, table 7), women's participation was on average less than 20 percent in the local elections held in the 1990s. This occurred despite universal adult enfranchisement.

The argument here is not that women belonging to different ethnic groups, castes, regions, religions, and classes face the same level of exclusion. The varied impact of the social exclusion faced by women hailing from different groups due to religious ideology, kinship structure, and access to the political elite will be pointed out in the discussion below. It has, in fact, been shown that government affirmative action policies have benefitted the 'high' caste hill women (Sob 1997; Manandhar and Bhattachan 2001; Tamang 1997).

Social practices and norms at the household, family, and society levels are major factors in discrimination against and the marginalization of women, and they cannot be eliminated by ending legal discrimination alone. Patriarchy is the root informal institution that has disadvantaged women across all ethnic/caste groups and classes even though its impact is varied across caste, ethnic and religious groups. I define patriarchy, following Mead, Khanam and Nahar (1979), as "a set of social relations with a material base that enables men to dominate women." It may be sustained by aspects of religion, kinship, political systems, social structures, and men's control over property (land, house etc.), income and women's labor. Patriarchy puts women in a dominated position within households, extended family and society, and constrains them from participating in politics, economic activities and society in general.

Religious Traditions, Patriarchy, and Exclusion

In Nepal, Hindu and Muslim religions in particular have enhanced and sustained patriarchy while women belonging to indigenous groups that either do not follow the major religious traditions or are less exposed to them are less likely to be impacted. Likewise, the hold of patriarchy is weaker on the 'lower' caste Dalit because they have less access to land and the other resources through which patriarchy is often mediated, and less attachment to the concept of purity (Cameron 1998). On the other hand, patriarchy's hold on 'high' caste women is very strong: "from crib to cremation, a woman's life in Hindu culture is circumscribed, regimented,

exploited, caged, consumed and destroyed by religion-poisoned society" (Mishra 1997: 347). Religious traditions and beliefs, such as sons necessary to perform after-death-rituals for dead persons, have made boys more important than girls. The treatment of women as objects of purity in major religious traditions constrains their free public movement to supposedly 'protect' their purity. One such practice secludes women and undermines their role in the public sphere. During the monthly menstruation period women, especially in the 'high' caste, are considered to be impure and have to spend the period in isolation to avoid defiling others through contact. Such practices constrain women's independence and may undermine their dignity.

The notion that women do not belong in the public sphere, another form of seclusion also undergrided by religious traditions, is another important patriarchal norm contributing to the exclusion of women. The norm stipulates that women's place is in the private sphere of bearing and raising children, taking care of the household and families, etc. whereas the public sphere like politics, market activities, and civil society belong to the men (Okin 1991; Young 1990). Women are disadvantaged by being relegated to the private sphere. First, household work is often not considered as 'real' work, not assessed accordingly, and is unpaid. Second, the work takes so much time that it makes women 'poor' with regard to time. Studies found that women could not participate in training opportunities and meetings because of too many household responsibilities (Cornwell 2003; The World Bank and DFID 2006, 36). The notion of public versus private is less common however among the indigenous nationalities, whose women are active in economic and other activities beyond the household (Acharya 2000).

Kinship Structure

Kinship structures reinforce patriarchy and exclusion by increasing vulnerability of women and making them dependent upon men, for example to their father when they are young, their husband during adult life and their sons in old age. The practice of patrilocal marriage among most communities in Nepal removes women from their family and village of birth and attenuates women's relationship to the natal family through distance and norms that restricts frequent visit to natal home. Among other things, it increases their vulnerability because they have to start life in a new place and build networks all over again. In competitive politics, it puts them at a disadvantage with males who have established networks in areas where they have always lived (Agarwal 1994). Second, as women move away and may not be around in old age to look after them, many parents invest more in sons (e.g. education, food). Thus, women in general may not acquire skills and capabilities necessary to become competitive in the economy, the society and politics.

Furthermore, unequal land holdings between men and women (see next section) is also facilitated by the practice of women moving away from the birth home after marriage. Even when women are awarded equal inheritance rights they might have to sell off the land or may be obligated to give it to brothers to keep the option of returning to their natal home open in case of marital problems. Even if women keep land after marriage, husbands often become the de facto owners of the properties (Agarwal 1994).

Control over Resources

Male control over the resource base also hinders women's independence, development and subsequent participation in the public sphere. Land, houses, and livestock are the most valuable form of property to the large rural farming population in Nepal. They are often held in the name of male family members. According to the World Bank and DFID (2006: 24), "[o]nly about 11 percent of households reported any land in female legal ownership; six percent reported that women had 'some' ownership of a house…Surprisingly, only seven percent reported female ownership of livestock, even though for many groups livestock rearing is traditionally a female task." This skewed property ownership is due to both formal and informal norms. Nepal's discriminatory inheritance laws have been reformed to some extent[6] but even the new laws did not change the unequal property holdings. Despite the reforms, the informal norms of preferring sons continue to favor men in the distribution of parental and family resources.

The lack of resources makes women dependent upon men, materially and psychologically. If women want to engage in business and want to take out loans, they will have to ask male relatives to put property up as collateral.[7] Without financial independence, it is generally difficult to participate and succeed in politics.

Male Dominated Political System

The political system which is heavily dominated by men has contributed to creating a vicious circle of exclusion. First, it discourages women from participating in politics and undermines their role in the formulation of socio-economic policies (Lama 1997; Manandhar and Bhattachan 2001). Second, it has deprived women of role models. Third, women may also be constrained in politics because society - and men particularly - may not treat such women with respect and dignity. They may be given denigrating names for interacting with non-family men. In competitive politics, women are more vulnerable to oppositional attacks and a significant part of the society may not vote for them because they will be seen as engaging in activities where women are 'not supposed to be.' Fourth, the "men's club" may also not share all information and

6. Unmarried daughters are entitled equal inheritance under the reforms while earlier only sons were entitled.

7. Observations from villages in East Nepal and Kathmandu. however, sometimes male relatives borrow gold and other jewelry from women to put up as collateral to take out loans from banks or money lenders. Rich women thus may have some leverage.

resources with women. Men socialize among themselves and this deprives women from getting tips and support that informal networks provide. Even if they are let into the inner circles it may be due to 'enlightened' leader(s) and this may make women dependent on such patron. Fifth, women activists have said that many women do not engage in politics because it's guided by masculine values of fierce competition that could involve physical altercations (Lama 1997), while women in some ethnic groups are often socialized into being submissive from an early age. Finally, as women are perceived as uncompetitive by male political leaders, it lessens their chances of being recruited for competitive politics.

It could be argued that a reason for the low participation of women may be their lack of education, skills, and capabilities. Even so, this absence is due to patriarchy that favors sons over girls in education, opportunities, food, and other arenas. Infant and under-five mortality rates for girls have been persistently higher than for boys in Nepal (The World Bank and DFID 2006: 26).[8] On the other hand, studies from rich but conservative societies have shown that social norms restrict even educated women. For example, women in Middle Eastern countries such as Saudi Arabia are highly educated but are not allowed to work in many professions (Morrison and Jutting 2005). Nepal does not have similar levels of restrictions but it is naive to assume that educated women, as well as women from the Dalit, indigenous nationalities and Madhesi groups more generally, do not face problems in politics and job markets.

Patriarchy operates in two ways to reproduce and reinforce exclusion of women. First, patriarchal norms (an informal institution), such as those that consider women to be subordinate, competes with ineffective formal institutions (gender equality laws) and produces divergent outcomes of female exclusion. Secondly, patriarchal norms that support the discriminating formal institutions, such as unequal inheritance law, are complementary informal institutions. They reinforce exclusionary formal institutions to entrench exclusion.

HILL HINDU CASTE SYSTEM AND EXCLUSION

While patriarchy contributes to the pervasive exclusion of women, the hill Hindu 'upper' caste system and its values contribute to the widespread exclusion of non-CHHE groups. By definition the hierarchical caste system privileges some groups while discriminating against others. The Nepali caste system excludes the Dalit through the practice of "untouchability," indigenous nationalities by labeling them as 'lower' caste and by not recognizing their culture and identity, and the Madhesi by lowering their caste ranks compared to co-hill castes (Dastider 1995; Gaige 1975; Yadav 1997; Lawoti 2005; Biswakorma 2003; Kisan 2005). Untouchability, cultural domination, and exclusionary nationalism affect all groups to some extent but the discussion that follows will make it clear that each phenomenon affected one particular group more than it does others.

The socio-cultural-political hegemony based on the CHHE value-influenced caste system, and the reproduction of an unequal society through it, has been labeled as Bahunism by the father of Nepali anthropology Dor Bahadur Bista (1991). Many find the formulation helpful to explain Nepal's social inequality and underdevelopment (Bhattachan 1999; Yakharai 1996; Biswakorma 2003; Metz 1996; Sharma 1991; Neupane 2000) while some members from the dominant group have rejected the concept and term outright.[9] Dahal (1990) and Pahari (1992) have pilloried the book showing "contradictions" and suggesting a failure to analyze alternative hypotheses and establish cause and effect. However, the criticisms have been criticized for being "one sided, negative statements," attempts at disproving generalizations by showing exceptions, missing the forest for the trees, and criticizing an inductive and ethnographic study whose aim was not to test hypotheses and establish cause and effect (Bennett 1992: 4-5). Many find the concepts useful and have expanded them to explain underdevelopment and the exclusion of marginalized groups (Kamata 1999; Macfarlane 2001; Neupane 2000). Alan Macfarlane (1994, 115), a prominent anthropologist, finds Bista's book *Fatalism and Development* so insightful that he compares it with De Tocqueville's *Ancien Regime*, Weber's *Protestant Ethic*, and Taine's *Notes upon England*. If Bahunism is understood as an imposition of one's culture and values on others through domination over the state and the legitimizing of the superior position of certain groups based on ascription, then the concept describes a powerful informal institution that has helped to perpetuate social inequality and hegemonic domination in Nepal (Neupane 2000; Lawoti 2005; Malla 1992).[10] The wide adoption of the concept by

8. Under-five Mortality Rate per thousand was 91.2 for boys and 112.4 for girls in 2001.

9. Bahunism could become a racist epithet if applied to all Bahuns. There is a widespread stereotype that Bahuns are crafty, cunning and conspiring. Like any stereotype, this is not true with regard to all Bahuns but is based on the devious behaviors of some individuals, which has been recorded by anthropologists (Bista 1991; Caplan 1970; Caplan 1972; Guneratne 2002), including a Bahun (Dahal 2036 v.s.). Such individuals have, in fact, harmed decent Bahuns indirectly by helping to create and perpetuate stereotypes. Bahuns have also been directly harmed by cunning Bahuns but probably less than individuals from other groups because the caste system and social networks protect them to some extent.

10. The term Bahunism does not strictly reflect the caste system but rather signifies power enjoyed by Bahun (hill Brahmin) and Thakuri and their use of that power to reformulate the caste system to place them in superior positions and to legitimize those positions based on ascription. Caste laws of 1854 in Nepal rendered Bahuns and Thakuris higher than the Tarai Brahmin, who follow the Hindu rituals of purity and vegetarianism more rigorously and who are traditionally ranked higher (see Hofer 2004, figure 2, p.9). The Thakuri is listed below the Upadhaya Bhraman but higher than the Jaisi Brahman, Chetri, Newar Braman, Indian Brahmin, ascetic sects, lower Jaisi and various Newar castes in the tagadhari, the highest category.

scholars and marginalized groups is resisted by many male Bahuns.[11] This validates the claim that caste is an important factor by demonstrating that resistance is based on caste identity.

This caste system, based on the values of dominant hill Hindu groups, has helped to reproduce severe political exclusion of other ethnic groups and women, which continued even during the democratic years. Bahuns, in particular, increased their dominance in politics after 1990 while most other groups' representation, including that of the Chhetri and Newar, the other two dominant groups, declined. There is no denying that high educational attainment contributed to the social mobility of Bahuns, but better educational attainment itself was the result of a more or less historic monopoly over education and contemporary policies that privileged Bahuns, who received instruction in their native language as well as free education in Sanskrit. Educational attainment alone, however, does not explain the group's hegemony. If educational attainment alone were a factor, then the Newar should have improved their performance as well because in addition to being better off socio-economically, which also fosters mobility, their educational attainment is high.

Hill casteism prevalent in the polity works to advantage the hill 'high' caste and disadvantage 'low' castes and others in several ways. First, the system marginalizes 'lower' castes and others and renders them uncompetitive. For example, lower education levels among marginalized groups due to historic and contemporary policy bias (e.g. education in a language other than their mother tongue) made the marginalized groups less competitive (Yadav 1992; Ragsdale 1989).

Second, caste based nepotism and favoritism, which guides politics and other spheres, advantaged the hill 'high' caste groups in politics. Supreme leaders often promote caste loyalists. Generally, they feel secure and comfortable with family and caste members who share a similar worldview, language, culture and religion and are socially permitted to enter their households, participate in their rituals, etc.[12] Empirical analysis of the parliament trends supports this thesis. During the Panchayat period, when the king was supreme, the king's caste group (Thakuris) and Chhetris dominated the Parliament overwhelmingly, holding 37.2 percent of the seats, while Bahuns held only 20 percent. On the other hand, during 1990-02, when the Bahuns dominated the political party leadership, they overwhelmingly dominated the Parliament with 39 percent of seats while the Chhetris, who are around 50 percent more than Bahuns in terms of the national population, declined to 19.6 percent (Lawoti 2008). Caste based nepotism has often sidelined competent persons of other groups. Yakharai (1996) describes an incident where a Bahun minister and secretary promoted junior civil servants of their caste over other senior and competent bureaucrats by giving their caste protégés full points in interviews to overcome other bureaucrats' higher marks in other arenas of evaluation such as written tests and service length.

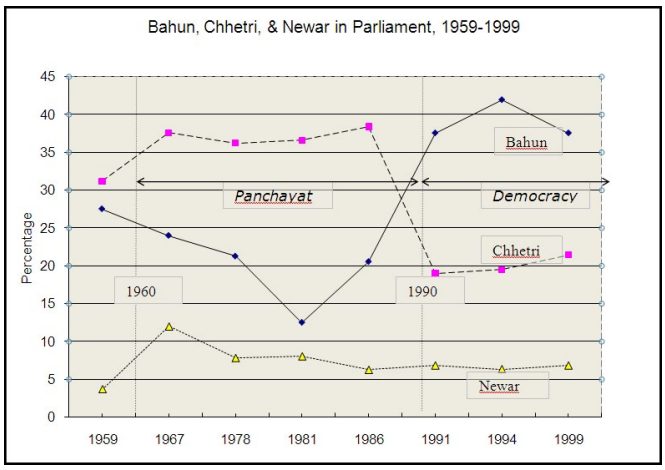

Figure 1: Caste and Political Representation

Third, with CHHE domination in politics, administration and other spheres, marginalized groups faced differential consequences in their lives. For example, nearly 60 percent of the prisoners in three Kathmandu jails were Dalit and indigenous nationalities. The disproportionate imprisonment of the groups was largely because 'low' caste people were victimized by the 'high' caste administration while the 'high' caste were either not similarly effected or were able to use caste network and influence in the system so as not to get imprisoned or get out of jail quickly (Nepal 2006). Such differential consequences due to the unfavorable conditions are prevalent in other spheres.

Marriage (endogamous), socialization, religious rituals, family and other kinship networks tie the 'high' caste group together and contribute to their social mobility because powerful political leaders and administrators hail from the group. Such networks provide opportunities for mobility to cadres and socio-political insurance to leaders by facilitating monitoring of 'clients' or people they have rewarded, making them effective institutions of discrimination and exclusion. Chandra (2007) argues that monitoring is easier along ethnic lines because ethnic identity makes available more easily information necessary for monitoring. If people betray their patrons, the dissenters could face consequences from social, family, and caste associations and networks.

The misunderstanding, discomfort, and conflict due to cultural differences, on the other hand, have harmed members of the marginalized groups. For instance, some Madhesi and indigenous nationalities' Parliament members from CPN-UML (Communist Party of Nepal-United Marxist Leninist) were censured for raising issues pertaining to their

11. I have found that rejection is more widespread among many "educated" male Bahuns and some Chhetris active in online Nepali forums dedicated to "democracy," "environment" etc.

12. Traditionally the Dalit are often not allowed to enter households while all 'lower' castes are generally barred from entering the kitchens and participating in 'high' caste rituals.

respective groups in the party forum. Such punishment and suspicion by top CHHEM leaders undermined the careers of the marginalized group leaders. Some left the parties that they had invested considerable time and energy in.[13] The exit by leaders, ironically, further reduced the presence of marginalized groups in major political parties.

The discussion of influence of hill based caste systems in politics does not mean that it is the only factor that influences political behavior and outcomes. Individual ability, and control or influence over resources also affects politics. Members of 'lower' caste groups could control these resources as well, though it is rare in reality. However when everything else is constant, the hill Hindu-value influenced caste system prevalent in the society helps in the upward mobility of 'higher' hill caste groups in politics and society while constraining members belonging to other groups. The next sections will discuss specific informal institutions that contributed to the exclusion of different marginalized groups.

Untouchability and the Exclusion of the Dalit

Even though caste discrimination and untouchability was legally ended and made discrimination on those grounds a punishable crime in the 1990 Constitution, the Dalit continue to bear the brunt of the caste system due to untouchability, which most Dalit face almost every day. The study on Measuring Empowerment and Social Inclusion conducted by the World Bank and the DFID (2006: 35) provides a good sense of its prevalence: "When asked if she had entered the homes of high caste people in her village, a Dalit woman in Tanahun district laughed, 'Not once! I've watched functions of high-caste families from outside their windows.'"

Dalits are still prohibited to enter many temples, use public water sources, and are forced to carry out traditional occupations, such as disposing of dead animals. In 2005, several Dalits were fined for entering temples in Saptari district and those who could not pay were expelled from the district (The World Bank and DFID 2006: 41), while in Siraha district Dalits were forced to remove carcasses of dead animals (Uprety, Rai, and Sedhain 2005). The data on untouchability/ caste discrimination collected by the Informal Service Center (INSEC) shows that the practice of untouchability has gone unabated (figure 2). The data represents events that produced counter resistance related to the practice of untouchability. It clearly demonstrates that incidents of untouchability that have come to the attention of human rights groups have not declined (INSEC 2008).[14]

Leaders of the 'high' caste groups have not treated Dalits as political equals. The non-nomination of Dalits for public

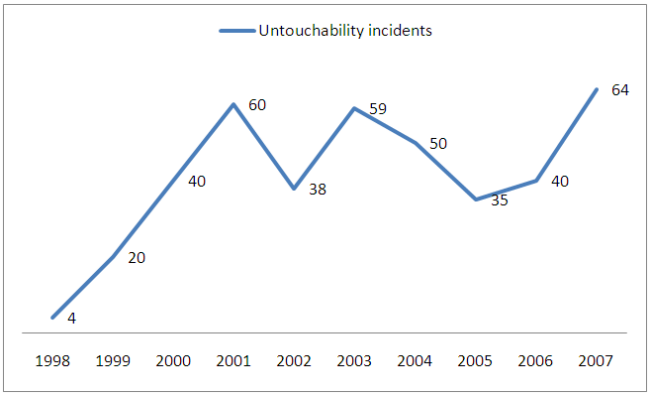

Figure 2: Reported Caste-based Discrimination

offices and the absence of progressive programs by major political parties to end untouchability and promote inclusion demonstrate this ambivalent attitude. As noted above, not a single Dalit was made a minister during the 1990-02 democratic period. Likewise, only one Dalit was elected in the three parliamentary elections (one out of a total of 615 possible seats).[15]

Educated, 'high' caste Nepalis often argue that untouchability exists only in rural areas among the illiterate. This is far from the truth. First, news of occasional public feasts among Dalit and non-Dalit as campaigns against untouchability in some urban areas demonstrates that the practice is still prevalent enough for some progressive groups to organize such events and become newsworthy. It is true that untouchability has been reduced in urban areas but its remnants still affect a large number of people, especially women. An ethnographic study in the Kathmandu Valley in 2006 found that Dalit women could collect water from public wells only after 'high' caste women to avoid 'defilement' of water collected by the 'high' caste. A social boycott of a Dalit woman, who broke the norms and complained about the practice of untouchability to the authorities shows that the practice is still socially enforced with severe consequences even in urban areas. A fine of thousand rupees was levied by the community to those who broke the boycott, due to which the Dalit woman lost her tailoring business (Kharel 2007).

Dalits, including activists, have told me that they often have to pretend to be a Bahun or Chhetri to rent apartments in Kathmandu and have been asked to vacate office spaces after the owners found out that they were Dalit. Folmar (2007) has

13. Interviews, Kathmandu, summer 2007.

14. The low number of reported cases in the late nineties is probably due to INSEC's inexperience in collecting data on untouchability. INSEC officials told me in the summer of 2008 that they began to collect data on issues they felt important as they gained more experience in human rights issues, and developed data collection methods on a trial and error basis.

15. This does not, however, mean that the situation of Dalits has not improved. Caplan (1972) had noticed in 1969 itself that Dalits had begun to oppose Bahuns in a West Nepal village by supporting another faction led by a lower ranked Jaisi Bahun, who they perceived as sympathetic, after universal franchise was introduced in village elections. The decrease in economic dependence of the Sarki (Cobblers) on the Bahuns and demographic status of Sarki who were nearly half of the village also facilitated the process. My argument is that Dalits have not become equal citizens and still face major exclusion and discrimination.

argued that presenting false identities as coping strategies at the individual level has undermined empowerment of the community because such people may hesitate to participate inpublic actions for fear of being found out.

Second, Dalit activists claim that even many educated individuals, who self-project as liberals and progressives, still follow the practice of restricted commensality. Some often claim helplessness when family members practice such rituals and defend it as their family's 'human rights' but do not seem to notice glaring human rights violations by such practices. Third, untouchability is problematic even if it occurs only in rural areas. 86 percent of Nepal's people live in rural areas. A large number of people are associated with the oppressive practice—as victims, active oppressors, or passive participants.

Finally, untouchability deprives Dalits of equal economic and other opportunities. Many jobs, professions and business opportunities (such as opening tea stalls and selling milk) available for enterprising rural people are not viable options for Dalits because many members of the society may not buy edible goods from them. Meanwhile, with penetration of the market and the availability of cheaper readymade clothes, shoes and metal farming implements, traditional sources of income of the Dalit have been undermined (Blaikie, Cameron, and Seddon 1980). Such constraints undermine the development and social mobility of Dalits and contribute to their exclusion from social and public life. A group whose members face caste discrimination everyday and who are deprived economically cannot be expected to be competitive in politics and other realms.

This discussion has shown that the social practice of untouchability contributes to exclude the Dalit directly as well as indirectly by marginalizing them and making them uncompetitive. The prevalence of untouchability despite a constitutional ban shows that informal institutions (untouchability) competed with ineffective formal institutions (a Constitutional ban) to produce a divergent outcome of continued widespread untouchability.

Ethnic/National Domination and the Exclusion of Indigenous Nationalities

The indigenous nationalities were marginalized by the dominant CHHEM societal norms that denigrated their language, culture, religion, and lifestyles. The dominant group considered the indigenous nationalities as 'low' caste, even though they were not part of the caste system. The assimilation policy and processes, vigorously promoted under the guise of modernization and development during the Panchayat era, projected dominant ethnic values, worldviews, language, religion, culture and tradition as Nepali and resulted in other groups and their attributes being perceived as less Nepali and inferior. For example, people who did not either know Khas-Nepali or lacked mastery over it were often considered incompetent.

Domination along national/ethnic and religious dimensions can be assessed by analyzing stereotypes and societal attitudes that denigrate the marginalized groups, their values, culture, and lifestyles. Stereotyping is prevalent in Nepali society toward both the dominated and dominant groups but it hurts the dominated groups more because they are not able to resist the impact of the demeaning portrayals. Patriarchy, the caste system, and hill nationalism have generated and reproduced stereotypes about the marginalized groups (Neupane 2000; Thapa-Magar 2000; Acharya 1994; Yadav 1997). Demeaning stereotyping is probably more varied and severe towards indigenous groups because they are more different than the dominant group in terms of culture, language, religion, and physical appearance.[16]

Stereotyping portrays the marginalized group as deviant because the groups do not possess the characteristics of the dominant groups that have been established as normal/universal (Young 1990). Hence, they are often considered dumb, incompetent, lazy, and problematic, among other things. In Nepal, stereotyping occurs at a number of levels. Songs, proverbs, morals and folklores project the marginalized communities negatively and the dominant group in superior terms (Thapa-Magar 2000). For instance, popular songs unabashedly use derogative words about marginalized groups such as *dalli magarni* (round faced Magar belle) and *nepti* (stub-nosed).[17] The people who do not see any problem with such songs react strongly if words like *chucchi bahuni* (pointed nosed Bahuni) are used.[18] Innumerable instances of folklore and moral values depict indigenous nationalities, women and Dalit as lazy, dirty, dumb, or undependable (Mohsin et al. 2003; Neupane 2000).[19] The demeaning stereotypes are prevalent and they have been internalized by the oppressed group members in many instances. For instance, many Dalit and indigenous nationalities consider that their 'bad' habits, such as alcohol consumption, are the cause of their underdevelopment. That people of the same stock with similar consumption habits have reached political and economic prominence and performed better than the CHHEM across the border in Sikkim and Darjeeling, show the falsity of such views (Lawoti 2005).

People can develop and grow well in their own cultural environment whereas discriminatory social attitudes

16. I do not discuss the Muslims even though the group is facing similar cultural problems because of limited literature on the problems facing the group.

17. A song - "maya kasle diyo nepti lai lightarra" (who gave a lighter to the stub-nosed belle).

18. Derogative portrayals are found in the popular Khas-Nepali literature as well. Pradeep Thapa-Magar (2000: 45-50) discusses a number of protests by indigenous nationalities activists over demeaning portrayals of the groups in the literary works like Silanyas (Bhimniddhi Tiwari), Dharanko Ukali Orali (Madhav Prasad Pokhrel) and Sumnimma (B.P. Koirala).

19. The extent of derogatory proverbs used against the Dalit is such that they are almost always presented as examples describing human frailties and possessing negative habits and attributes.

Table 1: Variants of Informal Institutions, 1990-02

Outcomes/ Effectiveness	Effective Informal Institutions	Ineffective Formal Institutions
Convergent	*Complementary* Unequal gender based inheritance laws & patriarchaical practices; Denial of citizenship to the Madhesi, and hill nationalism; Non-recognition of the Kirati religion in 1991 census	*Substitutive* Customary traditions that empower ethnic/ national groups in 'multiethnic' (as declared by the Constitution) society
Divergent	*Accommodating*	*Competing* Exclusion of women, the Madhesi, indigenous, & the Dalit in public offices (negative); Prevalence of untouchability (negative); Customary traditions & practices that promote identity despite formal discouragement (positive)

Framework adapted from Helmek and Levitsky (2006:14)

and practices constrain the growth and development of different socio-cultural groups, debase cultures by negative portrayal, and contribute to producing low self-esteem among members of such groups (Kymlicka 1995). The indigenous nationalities and others in Nepal were hindered in social mobility and constrained in their development due to discrimination against their culture, values, and traditions. They were disadvantaged in competition with members of the dominant groups in the CHHE biased cultural environment, perpetuating their exclusion, including in politics.

The pervasive stereotyping, non-recognition of the culture of marginalized groups and their treatment as 'low caste' demonstrates the role of competing informal institutions in the exclusion of such groups in a constitutionally declared 'multi-ethnic' Nepal (see table 1). On the other hand, non-recognition of religion of the indigenous nationalities (e.g. Kirati) by the dominant group complemented the declaration of the state as Hindu in the 1990 Constitution and helped to produce convergent outcomes.

Hill Nationalism and the Exclusion of Madhesi

The exclusion of the Madhesi is unusual because the Tarai is the most fertile region, which should have favored the Madhesi in competitive socio-political spheres - in many parts of the world people of the fertile plains perform better politically and economically. The most blatant discrimination against the Madhesi was in the citizenship realm. A government commission calculated that 3.4 million Nepali sixteen year olds and older—the majority of them Madhesi —were without citizenship certificates in mid-1990s. This discrimination in citizenship was not solely due to formal laws that barred the Madhesi specifically from acquiring citizenship.[20] The Madhesi became victims because the hill dominated administration would often deny citizenship to the Madhesi on the grounds that they were Indians. Even when the Madhesi had all necessary documents, they faced long delays in acquiring citizenship (Burkert 1997). The lack of citizenship certificates, which were necessary for government jobs, purchasing property and standing for public offices, deprived the Madhesi of fundamental rights.

The consequence of the dominant strata's discriminatory attitude towards the Madhesi can be demonstrated more clearly if access to the state by similar caste and ethnic groups from the hill and Tarai communities are compared. If one compares the Bahun (Hill Brahmin) and Tarai Brahmin, the former has greater access to positions in the state. Similarly, the hill Chhetri, indigenous nationalities, and the Dalit enjoyed more access to the state than the Tarai Chhetri (Thakur), indigenous nationalities, and the Dalit (table 2). For instance, during the 1990s, not a single Tarai Dalit was nominated to the powerless Upper House, which was one agency where major political parties and the king sometimes appointed one or two Dalits.

The source of discrimination and exclusion of the Madhesi is the hill nationalism that did not recognize the Madhesi as equal members of the Nepali nation-state. This is akin to what Gramsci (1971: 195) had observed: "the State renders the ruling group "homogeneous", and tends to create a social conformism which is useful to the ruling group's line of development." The Nepali nation and nationalism was

20. An article of the 1990 constitution restricted citizenship to only those whose father had a certificate. As many Madhesi were denied citizenship certificates when it was distributed, their offspring were also subsequently denied. These Nepalis were given citizenship certificates in 2007.

defined along the traditions and identity of the hill people - it was a regional-ethnic nationalism paraded as universal. The exclusionary nationalism was perpetuated through informal attitudes of the hill residents and with support from formal institutions. The rituals and traditions that were promoted to foster a sense of Nepali identity were mostly hill based. Even though the Madhesi are Hindus, the hill controlled state defined the Hinduism of the state along hill cultural lines, such as granting most public holidays on hill Hindu festivals (Mohsin et al. 2003).

Hill nationalism is an informal institution because the laws of the land do not formally declare Nepalis to be exclusively the hill people. The hill nationalists consider the Madhesi as either Indians or recent migrants from India and question their loyalty to the nation-state. These informal norms were reinforced in earlier periods by formal laws. For instance, as mentioned earlier, though Brahmins occupy the top positions in the Hindu caste hierarchy, the 1854 civil code put the Thakuri (Hill Kshatriya) above the Tarai Brahmin (Hofer 2004). This demonstrates that hill nationalism was so strong that it even overrode the ritual hierarchy prescribed by Hindu tradition.

The Madhesi were not recognized as a genuine group with specific problems by the hill community and the state or by the media and academia, which was dominated by hill people during the 1990-02 democratic years. This non-recognition of the Madhesi was so widespread that even the 1998 and 2004 Nepal Human Development Reports (NESAC 1998; UNDP 2004) and Unequal Citizens (2006) which analyzed inter-group issues (published respectively by the UNDP and a consortium of the World Bank and DFID) did not treat the Madhesi as a separate group (Lawoti 2008). The fallout of the non-recognition, in addition to symbolic and material harm, was the absence of policies that redressed the grievances of the Madhesis. For instance, development committees were established for the Dalit and indigenous nationalities during the late nineties and they were later transformed into the Dalit Commission and an academy for the indigenous nationalities. For women, a separate ministry was formed and quotas were set aside in the Upper House and local governments. Similar policies were not formulated for the Madhesi.

The non-recognition is more surprising because the Madhesi were the most mobilized among the marginalized groups. Unlike the indigenous nationalities, they launched a movement against the imposition of Khas-Nepali as the only language of instruction in public schools in the Tarai during the 1950s. A Madhesi political party, the Nepal Tarai Congress, received 2.1 percent of the popular vote in the 1959 election whereas the parties of the indigenous nationalities collectively did not get comparable popular votes even in 2008. The Madhesi began organizing during the Panchayat period as the Nepal Sadhvawana Parishad (Nepal Goodwill Council), which transformed into a political party after 1990. The party elected Parliamentarians during all the three elections in the 1990s whereas the indigenous nationalities and the Dalit parties did not elect a single member to the Parliament during the period. A higher level of mobilization of the Madhesi would suggest that the state and society would be responsive toward them. However, this was not so, because the hill nationalism was so strong that the hill society refused to recognize the Madhesi as equal Nepalis as long as they could afford do to so, that is until the 2007 Madhesi movement that paralyzed the country through strikes.

Specifically, the exclusion of the Madhesi occurred in four ways. First, people without citizenship certificates were not eligible to stand for public positions. Second, attitudes of suspicion toward the Madhesi meant that political leaders rarely appointed Madhesi to top public positions. Gaige (1975) noted that the Nepali state would only appoint Madhesi officials even in the Tarai if they could not find hill people for such positions. Likewise, due to the suspicion of Madhesi loyalty to the state and prejudiced perception that they are cowards, they were not recruited to the security forces, not only the army but to the police forces as well. Third, the suspicion and prejudice often created awkward and discomforting situations for the Madhesi and some left the mainstream political parties after it became unbearable. This reduced the pool of Madhesi that could rise within major political parties. Fourth, lack of access to social and state resources and socio-cultural discrimination rendered the Madhesi less competitive politically.

Table 2: Access to the state by Madhesi/Tarai and Hill People

Group/Status	*Less Access*	*Greater Access*
'High' Caste Hindus	Madhesi/Tarai	Hill
Indigenous Nationalities	Madhesi/Tarai	Hill
Dalit	Madhesi/Tarai	Hill

Source: Mohsin et al. (2003)

The lack of recognition and discrimination interacted in two ways with formal institutions. Non-recognition of the Madhesi as equal citizens by the hill people competed with formal equal rights guarantees to citizens by the Constitution while discriminatory attitudes and behavior of hill administrators complemented formal discriminatory citizenship laws to deny or delay citizenship certificates to

a large number of Madhesi, which led to their socio-political exclusion.

Informal Institutions and Inclusion

Some informal institutions in Nepal contributed to inclusion, even though indirectly. For instance, the informal norms of the indigenous nationalities operated to compete with the formal institutions of the state and informal values of the dominant group. The indigenous nationalities did not completely adopt the values, norms and policies of the CHHEM centric state that discriminated against them even though they were influenced by the dominant group norms to some extent, as demonstrated by Hinduization and Nepalization. Customary tradition of ethnic/national groups that sustained their identity and contributed to their mobilization and empowerment is a substitutive informal institution.[21] The mobilization of marginalized groups, which was facilitated by a distinct identity, forced some concessions from the state and contributed to the project of socio-cultural mobilization for inclusion after 1990. The practice of customary religious traditions (e.g. Kirati, animist) despite their non-recognition by the state is an example of competing informal institutions that produce divergent outcomes to facilitate inclusion.

The emergence of the Kirati religion as a census category is an example of how formal and informal institutions of different groups interact in different ways to produce changes in formal and informal institutions. As the ruling Hindus considered Kiratis part of their religion, it was not listed as a separate category in the census until 1991. This was a case of formal and informal institutions of Hindus denying recognition to a minority religion. However, in the 1991 census after the polity was opened, 1.7 percent of people asserted Kirati as their religion in the 'other' category. The census bureau was forced to include Kirati as a religious category in the 2001 census when 3.6 percent said that they follow it.

Thus, informal institutions produced both positive (identity preservation, mobilization and some concessions to marginalized groups) and negative (untouchability despite it being declared illegal) outcomes. This paper, however, has amply demonstrated that the informal institutions largely contributed in the pervasive exclusion of various groups in Nepal during the 1990-2002 democratic years.

CONCLUSION

This article demonstrates that informal institutions interacted with formal institutions in various ways to contribute significantly to the political exclusion in Nepal. The Nepali case also sheds light on how informal institutions contribute in creating new formal institutions or reforming them and how they reproduce and get entrenched with the help of formal institutions. For instance, the 1854 civil code was introduced, among other reasons, to collate existing caste practices in Kathmandu and in other areas of the country and to systemize them according to the ruling elite values. However, after the civil code was adopted and implemented, the caste system spread around the country and became more entrenched and began to operate in societies previously not influenced by it. The system was so ingrained that even after the caste based laws were formally ended in the 1960s, its influence continues through informal mechanisms.

The aim of this paper is not to argue that all the problem of political participation in Nepal are due to informal institutions. Poverty and other socio-cultural factors play a part in the political exclusion of social and ethnic groups. However, informal institutions such as patriarchy, caste based laws, cultural domination, and non-recognition significantly contributed to the poverty of the marginalized groups, and poverty in turn undermines their ability to mobilize for their rights, challenge inequalities, and compete with the dominant groups, demonstrating a circular causation.

The marginalized groups also engage in discriminatory practices and norms. For example, inter group inequality and discrimination is more severe in the Tarai between caste Hindus and the Dalit. Practice of untouchability exists among the Dalit themselves. Likewise, indigenous nationalities also discriminate against each other and towards the Dalit. Women in all groups face discrimination, although to varying degrees. Caste, ethnicity, religion, class and age, on the other hand, often put women in positions of conflict with each other. However, intra and inter group discrimination was often the result of the internalization (through socialization) as well as the imposition of a hierarchical caste system, exclusionary hill nationalism and patriarchy, often structured along the values and interests of the hill elite. The legal, social and structural framework constrains marginalized groups from engaging in overt challenges and contributes to their internalization of the norms. Once the norms and values are internalized by even the oppressed groups, they increase the effectiveness of the informal institutions.

Nepal is undergoing a major transformation and it has changed some formal institutions and may change many others as the country adopts a new Constitution. Informal institutions, however, take time to change. Attitudes and traditions persist and are difficult to change overnight or even over time. Thus, some forms of exclusion, produced and reproduced by informal institutions, will probably continue even in the 'new Nepal.' One way to lower exclusion in the future would be to recognize the role of informal institutions in exclusion and then devise formal institutions that undermine them.

21. The accommodative informal institution category was not helpful in describing and explaining the role of informal institutions in political exclusion/inclusion in Nepal. If effective formal institutions exist, then it may not be possible for informal institutions to produce divergent outcomes. Thus, this study finds Lauth's (2000) three-fold category more useful than Helmke and Levitsky's (2004; 2006) four-fold category.

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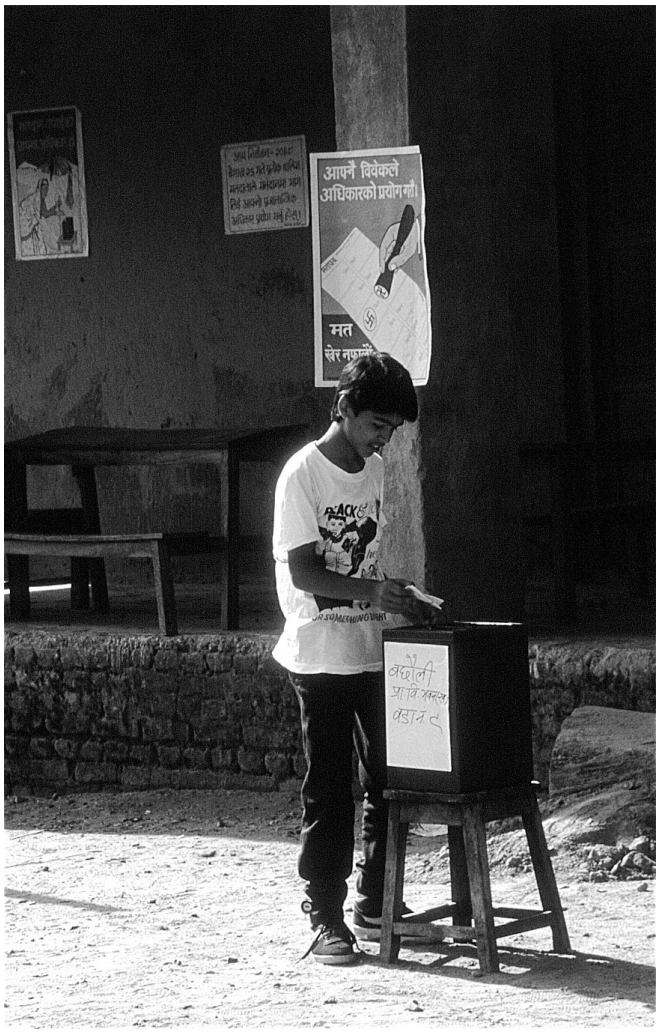

Voting in the general election, May 1991, Chitwan.
Photo: Arjun Guneratne