

Electoral System of Nepal

Draft Constitution of 30 June 2015

Social Science Baha

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House of Representatives

- Complexity
- Inclusiveness

CA in 2008 and 2013

- 42 % FPTP
- 58 % List PR

Interim Constitution, Article 63 (4)

“while making the lists of the candidates pursuant to sub-clause (b), the political parties shall ensure the proportional representation of women, Dalits, oppressed communities/indigenous groups, backward regions, Madhesis including other groups, in accordance with the law”.

The Law of 2007

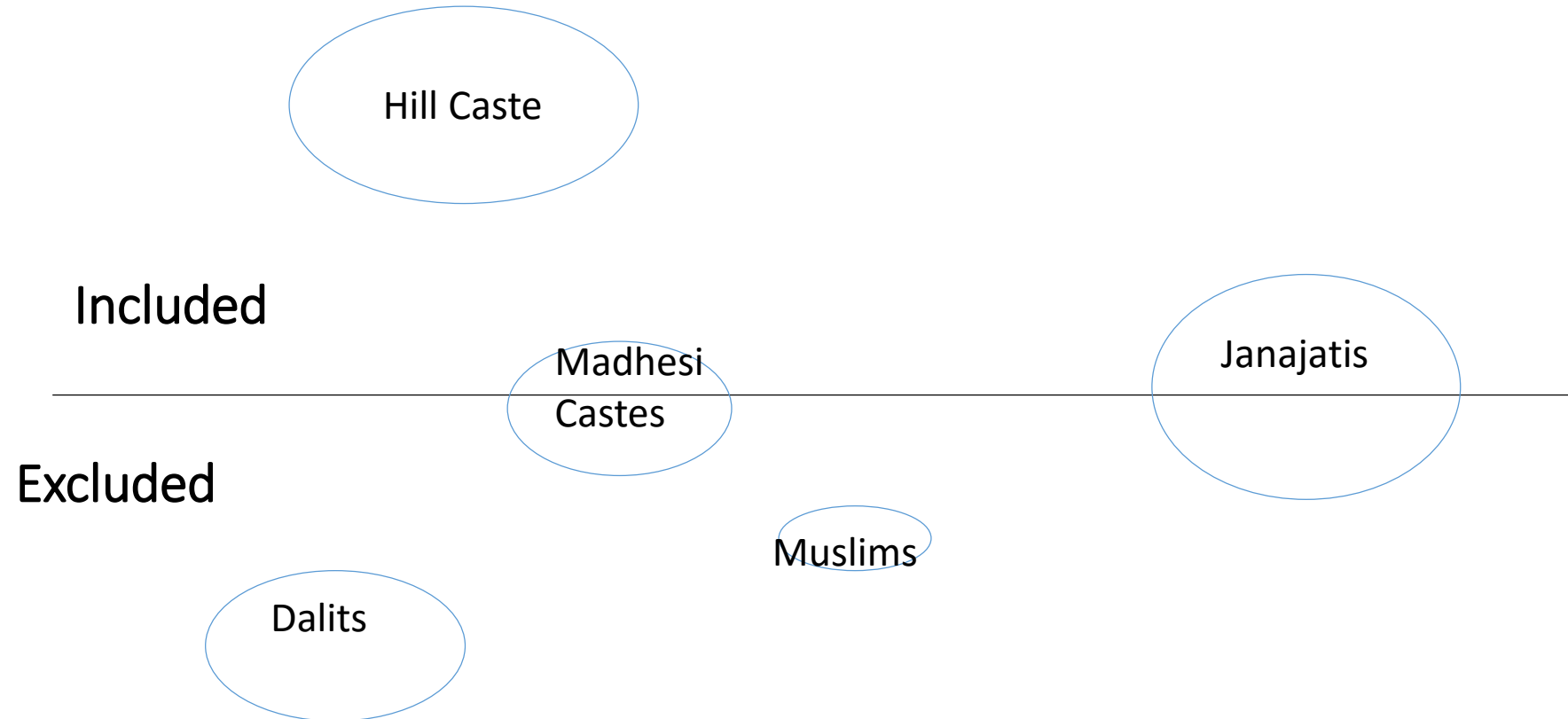
Group to be represented	Gender	Share of candidates in per cent
Madhesi	Women	15.6
	Men	15.6
Dalit	Women	6.5
	Men	6.5
Janajatis	Women	18.9
	Men	18.9
Backward regions	Women	2.0
	Men	2.0
Others (Hill castes)	Women	15.1
	Men	15.1

Implementation by ECN Procedures

Class	Madheshi		Dalit		Oppressed, indiginous and ethnic Group		Backward region		Khas Aarya and Others		Women	
	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
Percentage	31.2		13		37.8		4		30.2		50	
Number of Candidates												
1	0	1	0	1	0	1	0	1	0	1	0	1
2	0	1	0	1	0	1	0	1	0	1	1	1
3	0	1	0	1	1	2	0	1	0	1	1	2
4	1	2	0	1	1	2	0	1	1	2	2	2
5	1	2	0	1	1	2	0	1	1	2	2	3
6	1	2	0	1	2	3	0	1	1	2	3	3
7	2	3	0	1	2	3	0	1	2	3	3	4
8	2	3	1	2	3	4	0	1	2	3	4	4
9	2	3	1	2	3	4	0	1	2	3	4	5
10	3	4	1	2	3	4	0	1	3	4	5	5
11	3	4	1	2	4	5	0	1	3	4	5	6
12	3	4	1	2	4	5	0	1	3	4	6	6
13	4	5	1	2	4	5	0	1	3	4	6	7
14	4	5	1	2	5	6	0	1	4	5	7	7
15	4	5	1	2	5	6	0	1	4	5	7	8

Some Observations on the 2007 system

- Complexity
- All candidates to declare identity
- The political elite would win two ways:
By being over-represented in FPTP and getting a proportional share in List PR
- Women and Dalits were promoted, but with a ceiling on their representation in PR



Study of FPTP Elections

Group	1991	1994	1999	2008 FPTP	2013 FPTP	Share of the population according to the census 2011
Excluded groups						
Hill Dalits	0.5	0.0	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	1.0	4.9	5.4	3.8	9.2
Madhesi Dalits	0.0	0.0	0.0	0.4	0.4	4.7
Tarai Janajatis, excluded	0.5	0.0	0.5	1.7	0.8	2.1
Religious groups (Muslims and Sikhs)	2.4	2.4	2.0	2.5	2.1	4.5
Total excluded groups	11.2	8.8	12.2	21.7	12.9	45.1

Study of FPTP Elections

Group	1991	1994	1999	2008 FPTP	2013 FPTP	Share of the population according to the census 2011
Included groups						
Hill caste	53.7	62.4	58.1	41.3	55.0	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, included	8.3	6.8	3.9	5.4	7.9	6.6
<i>Total included groups</i>	88.8	91.2	87.8	78.3	87.1	54.9

16 Point Agreement

9 June 2016

On Parliament and Election System

4. The Federal Parliament would be bicameral comprising the House of Representatives and the National Assembly. The Province Assembly would be unicameral.
5. The election to the House of Representatives would be held through the mixed election system. The House of Representatives would be of 275 members. There would be a total of 165 parliamentary election constituencies. This many representatives winning majority of votes under the first-past-the-post election system from these 165 constituencies would be elected the members of the House of Representatives while the remaining 110 members would be elected through the proportional election system.
6. The number of members of the National Assembly would be 45. Forty members would be elected from each province with each province sending equal number of members. The remaining five members would be nominated by the President on the recommendation of the Federal Council of Ministers.

Draft Constitution 30 June 2015

House of Representatives

- 165 elected by FPTP (60 %)
- 110 elected by nationwide PR (40 %)

Article 88 (2) Provision shall be made according to law for the representation of political parties to file candidacy for the election of the House of Representatives for proportional representation system through closed list, of women, Dalit, Adibasi, Adibasi Janajati, Khas Arya, Madhesi, Tharu, Muslim, backward regions and minority communities on the basis of geography, population and provincial balance.

House of Representatives PR

- With only 40 %, down from 58 %
- Women plus 9 groups listed, in addition to 8 provinces. Meaning 18 groups?
- “reflect the balance” must mean in proportion to population?

Hill Caste in House of Representatives

- Normally win from 54 to 62 % of FPTP
- That would give hill caste 32 to 37 % of the full house without a single PR seat

Consequence for Dalits

- 13 % out of the 40 % PR minus flexibility
- Less than 5 %!
- Possible remedy: Guarantee a share (e.g. 9 %) in the full house, similar to for the women

House of Representatives

PR - Madhesi parties will have to have

- 31 % Hill caste people on the lists
- 50 % of the candidates need to come from provinces in the hills and mountains

House of Representatives

PR

Alternative 1: “The election law should define special representation for such groups including women and Dalits which are otherwise excluded from representation.”

Alternative 2: “The election law should define special representation for such groups including women, Dalits, Muslims, excluded Janajatis, excluded Madhesi castes which are otherwise excluded from representation.”

The shares of Excluded groups based upon the results of FPTP elections

Group	Share, possible minimum representation
Dalits	13.3
Janajatis, excluded only	18.1
Madhesi castes, excluded only	9.2
Muslims, Sikhs and Jains (hill and Tarai)	4.5
Total	45.1

Example excluded lists

2011 census groups

To be reviewed at regular basis

Dalits (15): Badi, Damai/Dholi, Gaine, Kami, Sarki, Bantar, Chamar/Harijan/Ram, Chidimar, Dhobi, Dom, Dusadh/Paswan/Pasi, Hakhor, Khatwe, Musahar, Tatma

Muslims and Sikhs (2)

Excluded Janajatis (41): Bhote, Bote, Bramu/Baramu, Byangsi, Chhantel, Chepang, Danuwar, Darai, Dura, Gharti /Bhujel, Hayu, Hyalmo (Yehylmo), Jirel, Kumal, Kusunda, Lepcha, Magar, Majhi, Pahari, Raji, Raute, Sherpa, Sunuwar, Tamang, Thami, Walung, Yakkha, Amat, Dhanuk, Dhimal, Gangai, Jhangad (Dhagar/Jhagar), Khawas, Kisan, Koche, Meche, Munda, Pattharkatta/Kuswadiya, Rajbanshi, Santhal/Satar and Tajpuriya.

Excluded Madhesi Castes (28): Badhaee, Bangali, Baraee, Bin, Dhunia, Gaderi/Bhedhar, Hajam/Thakur, Haluwai, Kahar, Kalwar, Kamar, Kanu, Kewat, Koiri/Kushwaha, Kumhar, Kurmi, Lodh, Lohar, Mali, Mallaha, Marwari, Nuniya, Nurang, Rajbhar, Rajdhob, Sonar, Sudhi and Teli.

House of Representatives PR “Closed Lists”

- Ranked from 1 to number of candidates
- Zipping women and excluded
- Seats won filled from top

Inclusive 'zipped' list example 1

Rank	Name	Woman Minimum 50%	Excluded Janajati/Caste/Dalit Minimum 45 %
1	Kumar		X
2	Durga	X	X
3	Krishna		
4	Shanti	X	
5	Prakash		
6	Anjana	X	X
7	Megh		X
8	Anarkali	X	
9	Raj		X
10	Laxmi	X	
11	Chandra		
12	Usha	X	
13	Abdul		X
14	Radha	X	
15	Shambhu		X
16	Kumari	X	
Total		8	7

Women's Representation

- Guarantee of one-third women in the Parliament (both houses combined)
- Compensate from PR in House of Representatives
- National Assembly will always have at least 40 per cent women, so HoR may only have at least 32.4 %
- Should rather have requirements for each house

A similar arrangement could be introduced for Dalits and the other excluded groups