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Understanding Madhesi Contentions

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INTRODUCTION

On July 19, 2008, three months after the Constituent Assembly (CA) elections, Nepal elected its first president.¹ It was an unprecedented historical event. Even the most prominent political parties, which had either nominated or backed presidential candidates, had not thought that Nepal's monarchical kingdom could turn peacefully into a republic. Unlike what many political pandits had anticipated, the candidates running in the presidential race were from a "Madhesi" background.

The Madhesi communities' "Nepaliness" had been sceptically looked upon since the Nepali identity got consolidated in the first half of the twentieth century. The idea of being "Nepali" was typified around symbols such as the Nepali language, Hindu religion, the monarchy (Shah 1993; Burghart 1994; Sharma 2004), and a narrative of a "history of bravery" (Onta 1996). Later on, the Panchayat regime (1960–1990)² propagated the idea of being "Nepali" around the same

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² In December 1960 King Mahendra usurped power against the democratically elected government. He later started the partyless Panchayat system. The Panchayat regime came to an end after a popular uprising in 1990 restored multi-party democracy.

emblems. Deeply embedded in those symbols was state patriarchy (Tamang 2000) and a *Pahadi* cultural ethos (Gautam 2008a). The consequences of a national project varied in degrees by caste/ethnic groups, religious/cultural segregation and regional difference. For example, Madhesi is hitherto imagined as *dhoti*, *marsiya* and *madhise*, belonging to different racial and cultural groups similar to their Indian counterparts, hence not “real Nepali.” Beyond appropriation of resources from the Madhes region, the excluded state of the Madhesi is a response to an institutionalized national identity code which has intricately shaped differences in everyday mentalities.

The January 2007 Madhesi revolt was a watershed moment that opened up immense political opportunities. Following it, the Madhesi parties’ remarkable electoral success paved the way for them to engage in legitimate national politics hitherto thought to be unlikely. Beyond these, several other factors need consideration in order to comprehend recent transformations. These include the consequences of the post-1950 development processes and the nationalist rhetoric; the ten-year (1996–2006) long armed struggle and subsequent debates on state transformation and social inclusion; the People’s Movement of April 2006 that brought the Communist Party of Nepal-Maoist (CPN-M) and the parliamentary parties closer to put an end to autocratic monarchy;³ and the first Constituent Assembly (hereafter CA-I) elections that clearly embraced anticipation and hope for a new socio-political order. The development and nationalist rhetoric that the Panchayat regime

³ In April 2006 millions of people came on to the streets for nineteen days to put an end to autocratic monarchy. Popularly known as *Jana Andolan II*, the People’s Movement was historic for various reasons. First, it was an unprecedented peaceful demonstration following a joint call of the twelve-point pact between the Seven Party Alliance and the CPN-M. Second, on the part of the Maoists it was a pledge that displayed their commitment to renounce armed struggle. Third, on the part of the seven political parties it was a new beginning of their legitimacy. The movement was a historic response, one that aspired to convert Nepal into a republic.

propagated alongside radical socio-political patterns that Nepal experienced particularly in the last two decades have reshuffled politics and opened up new political opportunities. The Madhesi struggle had, and still has, the potential to operate and/or impact beyond its parochial reach. Madhesis as a political community is rapidly changing as Nepal is undergoing historical transformations.

Before examining this further, four points relating to the presidential race are of note. Firstly, as fears of the CPN-M⁴ and Madhesi electoral success came true, the election of Ram Baran Yadav, the first president, came about due to the fall of consensual politics, the re-emergence of an anti-Maoist alliance, and the backing of the Madhesi Janadhikar Forum (MJF) for Yadav. Secondly, Ramraja Prasad Singh, who lost, was the champion for a republic Nepal and a symbol of integrity; while Ram Baran Yadav, who won, was a tacit supporter of constitutional monarchy and a favorite of the Kathmandu political class. Thirdly, for all political parties, including Madhesi ones, the presidential race explicitly signalled that the CA would be an avenue for power politics rather than an assembly for radical transformation, one that would ensure new constitutional values and practices. Fourthly, the emergence of the Madhesi parties as independent, active players in the larger political parleys of making and unmaking governments, suggested that regional interests and common agendas could be in peril. The message was that, despite the fact that the CPN-M dynamics largely influenced the course of national politics, Madhesi parties had become a crucial force.

In the 1950s, while the Madhesi issue was framed by the political pursuit of a small clique, the scenario remained far bleaker. The claims in the early 1950s were primarily focused around representation in government and legislatures. Madhesi issues were cast within the framework of welfare and development. Despite calls to recognize

⁴ In January 2009, after the CPN-M got united with the Unity-Centre, it changed its name to Unified Communist Party of Nepal-Maoist. In subsequent years, the Maoists have gone through several splits and mergers, and its main wave is now called the Community Party of Nepal-Maoist Centre.

the Hindi language, the politics of representation was a core factor, not the politics of recognition. In the late 1950s, however, some undercurrents began to highlight the politics of recognition (see Thakur 2052 v.s.). Once hill nationalism segregated Madhesis during the Panchayat regime, their rights were predominantly framed within an approach opposing “Pahadi” cultural norms and practices. The Pahadi ethos embedded at state levels were firm in societal perspectives which led to a corresponding characterization of the Madhes as an “internal colony” and “Madhesi” as uniformly non-Pahadi people of a Hindu social order who shared cultural ties with India. Consequently, Madhesis became largely submissive to Kathmandu and, simultaneously, vulnerable to co-optation and the status quo.

The politics of recognition is now at the core of Madhesi contentions. The urge that Madhesis should be provided equal status and opportunities in spite of the differences is less coherent. Instead, on the basis of a historically depressed status, Madhesi parties seek to legitimize “the difference” in order to seek participation in government and the legislature. The effort is to assure equal treatment for Madhesis, while leaving unchanged the binary Madhesi-Pahadi code that reinforces the sense of “Other” in Madhesis.

Nancy Fraser succinctly argues that “recognition remedies for cultural-valuational injustice always enhance social group differentiation” and often fail to “de-differentiate social ‘Group’” (1995: 68). As group segregation is reiterated, and constantly reproduced, imagining Madhesis as citizens with rights and duties and as individuals entitled to full access to resources and capabilities of their own, becomes less important. Dominant understandings of Madhesi have not included how class, caste, gender, age and other cross-cutting divides contribute to inequalities. The Madhesi group imagination is in need of developing a critical understanding of recognition and, as Fraser writes, “one which identifies and defends only those versions of cultural politics of difference that can be coherently combined with the social politics of equality” (Fraser 1995:

69). Only then can circumstances be created when the politics of recognition help to support the politics of redistribution. Otherwise, Madhesi politics will fail to grasp socio-economic inequalities and diversity to bring about much needed transformation in the region.

DEMOGRAPHIC MAGNITUDE

While Madhesis are alleged to be outsiders, most of the writings by Madhesis themselves claim that the Madhesi community had been living in Nepal before its modern territory was formed in the mid-eighteenth century. The genealogy of Madhesi origins has its own historical value; nevertheless, the population in Nepal has been traditionally categorized into Indo-Aryan (Caucasoid) and Tibeto-Burman (Mongoloid) groups, or the Hindu and non-Hindu. The Caucasian population migrated from the west and south and the Mongoloid population from the north and east, with both groups moving over a long period. However, since the mid-eighteenth century Hindu “high-caste” from the hill have maintained political, economic and cultural domination.

Subsequently, differentiations were made between Hindu castes, and other ethnic groups. The three main forms of differentiation came to be identified gradually: 1) high-caste Hindu groups and Tibeto-Burman groups (self-identified as *Adivasi/Janajati*); 2) high-caste Hindus and low-caste untouchables (self-identified as Dalit); and 3) hill people (Pahadis) and plains people (especially Madhesis). The cultural ethos of these groups and their symbols had different effects on national and regional imagination. This third differentiation has been a long-standing source that has shaped Madhesi politics and perhaps will remain an impetus for Muslims’ grievances in slightly different religious variations.

Although the presence of Madhesis has been recognized, their existence has not drawn adequate attention. Madhesis are among the largest regional and cultural groupings. Over the centuries, demographic magnitude and internal migration have affected Madhesi cultural beliefs and practices. The cultural definition of

what it means to be Madhesi and patterns of Madhesi inequality vary among Brahmans and Hindu caste groups, *Adivasis* and Dalits, Muslims and males and females in the region. They also differ across geographical regions, and this difference is more pertinent across economic, social and political lines. Socially, Madhesi also combine other ethno-religious identities. For example, a Muslim who identifies herself as a Madhesi living in Sunsari and who thinks of herself as a Muslim but also Madhesi is different from a Madhesi of Janakpur who believes himself to be a Hindu, or from a young Madhesi Dalit woman in Siraha whose subordinate status is taken for granted in a highly patriarchal and caste-dominated milieu.

To comprehend diversity and inequalities in the plains, “Madhesi” is a term that is too modular⁵ and general as it neglects the sharp and widespread ethnic, religious and caste divisions. For example, Muslims residing in all the districts in the Tarai constitute 13 percent of the total Tarai population and are the largest single social group in Rautahat (106,142), Kapilvastu (93,602), Banke (81,417) and Parsa (76,609). In districts like Bara, Mahottari, Sunsari and Dhanusha, their population ranges from 55,000 to 75,000. Muslims have been facing difficulties in framing their grievances within the Madhesi imagination, despite being a constituent of the non-hill association that is increasingly dominated by caste politics and Hindu norms (Miya 2009). Despite Madhesi campaigners’ attempts to impose a pan-Madhesi identity, counter-Pahadi rhetoric might not encapsulate ethnic, religious and caste magnitude as well.

Above 50 percent of the total population of Nepal resides in approximately 17 percent of the area in the Tarai. Here enters the regional diversity.⁶ Firstly, the Hindu caste order includes people from “high castes” like Maithil Brahman, Bhumihar, Rajput, Kayastha,

⁵ By “modular” I mean as a way of reproducing homogeneous cultural artefacts and imaginaries.

⁶ The 2001 census enumerated 103 caste/ethnic groups including “unidentified groups.” It has also classified ninety-three languages group. Group claims along ethnic and language divisions are likely to increase, among other factors, to ensure political representation and access to state resources.

and “middle caste” groups to “untouchables” like Khatve, Musahar, Dusadh, Chamar and Dom. Secondly, communities like Tharu, Dhimal, Gangai, Jhangad, Danuwar, Koche, Meche and Rajbanshi are treated as indigenous. Thirdly, Muslims are considered “mlechha” or outside the Hindu religious and caste order. Fourthly, there are traders and business groups, particularly Marwaris, and also groups such as Bengalis and Sikhs that have migrated into the Tarai from India relatively recently. In fact, this group is also internally diverse in terms of its religious and cultural attributes. Finally, in terms of settlement, there are different ethnic groups who migrated from the hills. Among these, mainly those groups belonging to the first and third categories claim they are Madhesi.

But Dalits and the poor in the first group believe that framing their struggle within a caste/class framework yield better results. Due to different religious beliefs significant proportions of Muslims do not identify themselves as Madhesi. The difference is even more prominent in districts west of Chitwan. Within the fourth category a small proportion of the Indian migrants also claim to be Madhesi. Groups belonging to the second category identify themselves as indigenous communities. Tharus, in particular, have contrasting historical narratives and political associations vis-à-vis Madhesi, but with significant exceptions (see Guneratne 2002; Kumar 2007). All of these imply that out of approximately 32 percent of the population, the proportion which considers itself Madhesi is hard to map as not all of them self-identity as Madhesi (CBS 2012).

Between the 1960s and the 1980s, there was a huge migration influx from the hills to the plains. Changes in demographic dynamics in the Tarai have simultaneously made Madhesi identity more blurred and complex. Despite the proportion of the hill population historically being negligible, Nepal’s socio-political order has for a long time been hit by “high-caste” Pahadi clout. Following big changes in the proportions of the hill-Tarai population, the interplay of national cultural-political transformation had dominant effects within the region. Fredrick Gaige (1975), who researched

the Tarai from a framework of “integration,” named this process “Nepalization.” Madhesi activists have long pointed out this process as “internal colonialism” and “marginalization” of the Madhesis. They have also pointed out the building of the east-west highway, Panchayat’s “back to the village” campaigns, land reforms in the Tarai and other measures, as attempts to extract resources from the Tarai and more importantly for taking land from the Madhesis to give to Pahadis (Jha 1993; Yadav 2003; Gupta *et al.* 2060 v.s.; Shah 2063 v.s.). However, Gaige concludes:

Despite evidence that Nepal’s land-reform program could have been used to transfer large portions of agricultural land from plains people to hill people, effectively dispossessing the plains people, this has not been done to any significant extent, and there is no indication that the Nepali government plans to attempt mass dislocation and resettlement of its people. (1975: 194)

The contradiction between Madhesi campaigners’ claims and Gaige’s findings demands solid empirical research capturing patterns of migration and landholding in the region. Yet, available research reveals that Gaige was not wrong. For example, in 1953 the Rapti Valley Multi-purpose Development Project, which also resettled hill people in the Tarai, took place in Chitwan, and between 1963 and 1972, the Nepal Punarvas Company (NPC) carried out resettlement schemes in Nawalparasi, Banke, Bardia, Kanchanpur (the largest) and Jhapa. During this period an estimated 73,050 households—37,966 (eastern Tarai), 20,508 (central Tarai), and 14,576 (western Tarai)—migrated to the plains, out of which 9,150 were believed to be unattached migrants; 58,400 settled on their own and only 5,500 was settled by NPC (Elder *et al.* 1975: 154).

Interestingly, the NPC worked largely in Tharu-inhabited areas, not considered the core heartland of Madhesi politics. Also, the Madhesi contention predates the rapid flow of migration from

the hills to the Tarai. The decades of migration further increase the exclusionary processes and that had multifaceted impacts: undermining Madhesi representation from the region; taking away state employment from plains people; changing land ownership and labor relations; and embedding national culture through education and media. In turn, shaping state, power and social relations in a way that Madhesis' presence and participation in the national political life became invisible.

BACK TO CONTENTIONS

January 2007 in the Tarai was a watershed moment for studying the political impact of a major tide of "Madhesi consciousness." The moment contained potentialities that, by one means or another, permanently advanced the Nepali political scene. It had durable political impacts on its frame: it is now hard to look at Madhesi contention merely as threats to national unity and/or through a geopolitical lens alone. Instead, Madhesis are now envisioned as a cultural-political community constantly claiming a stake in the new political dispensation.

This is a major shift in its meaning from how "Madhesi" used to be a non-contentious category prior to the 1950s and one with allegedly Indian associations particularly during the Panchayat era. The protest waves of 2007 were followed by a major constitutional amendment, the addition of the federalism provision in the Interim Constitution (IC) 2007 as first demanded by Upendra Yadav of Madhesi Janadhikar Forum (MJF) and his collaborators. As the initiative shifted from protesters to newly emerging leaders and from there on to constitutional interest groups, to armed groups and the political class, the reform was castrated. A brief review of how this happened will outline how, like many powerful movements elsewhere, its power was at first "ferocious, uncontrolled, and widely diffused but ultimately ephemeral and institutionalized" (Tarrow 1998: 210). In early January 2007, Upendra Yadav and his collaborators with a mixed political interest in a newly created political situation burnt

a draft of the IC 2007 on the streets of Kathmandu, stating it would continue to discriminate against the Madhesis if the unitary state remained intact. The demonstrators were arrested and detained. Following this, small groups of Yadav's supporters called a strike in the Tarai demanding the release of the detainees. On January 5, 2007, a demonstration in Lahan was confronted by Maoist cadres who wanted to defy the strike as they had long suspected that the protesters had "regressive" desires with the aim of sabotaging the ongoing political process. As defying protesters were hauled off a bystander schoolboy—Ramesh Mahato—was shot dead. Amid the ensuing violence and anger, news of the outrage diffused to other areas in the Tarai. Business in the region shut down for twenty-one days. The only highway that is crucial for the supply of goods to Kathmandu was blocked.

As the violence broke out, the desire of the other political parties to use the Madhesi groups against the Maoists prevailed. Madhesi-Maoists irregular confrontations increased, and the Madhesi leaders attempted to broaden their public appeal. As the movement spread, the public understood that it was facing a potential revolution. The interest of sabotaging a political process, if any, and the concrete issue of a constitutional amendment was displaced by the demand that institutionalized domination based on Pahadi cultural codes be replaced and an autonomous government in the region be established. The radical contestation in the streets, at times instigated by violent events, emboldened Madhesi leaders and put the authorities on the defensive. Joint protests between all parties other than the Maoists were sporadic at best, but the natural boost to working-class Madhesis gave the movement a force it may not have had on its own (cf. Gautam 2008b).

Prolonging the protest with the objective of weakening the Maoists was the first aim of the ruling parties and other groups. Resisting the movement with brutal force was the second. In twenty-one days more than twenty-eight people died and hundreds were severely injured, out of which more than twelve died later. The

Maoists were also inclined towards the use of force. In a reversal of his desire to maintain a unitary state, Prime Minister Girija Prasad Koirala was forced to concede twice after his first proclamation was deemed ill-conceived. The IC 2007 was soon amended, favoring a federal setup and including the “Madhesi” classification (see Jha 2007a; cf. Gautam 2008b).

Placed on the defensive side the government called for a negotiation that was turned down for months by Upendra Yadav and his groups. The MJF, which was not a political party until then, was overwhelmed by the new beliefs of Madhesi consciousness, solidarity and the movement’s power, or “moment of madness” to paraphrase Aristide Zolberg. By May 2007, when Yadav initiated a negotiation with the authorities he had no concrete plan for radical reform and his influence was weakened both by the breakdown of Madhesi solidarity and federal assurances (see ICG 2007; Jha 2007b). Sidney Tarrow writes that “movements do not produce their major effects directly, but through their interactions with more conventional political forces and the elite” (1998: 177). In the case of the Madhesis, their interaction with the conventional authority was the weakest part as Yadav started dialogues when the movement’s ephemeral power had already begun to diffuse. Since the overall political process was in a transitory state, the “Madhesi passion” of the masses had something else to offer and the CA was its best reflection, one that created new “opportunity structures.”

THE HISTORICAL LEGACY

In the late eighteenth and during the nineteenth century, extraction of agricultural produce and resources from the Tarai was central to the Nepali state’s interests. This was carried out in collaboration with Tarai landlords to serve the military-government complex in Kathmandu. Particularly, during the Rana rule (1846–1951), land in the Tarai was generously distributed to Rana family members and

military officers.⁷ One of the causes of the conflict in the Tarai can be traced back to the arbitrary distribution of land. The landowners accumulated fortunes, especially through exploitation of land and forest resources. By the early nineteenth century, forests in large parts of Morang, Saptari, Sarlahi, Rautahat, Bara and Parsa districts were already destroyed partly for cultivation (Stiller 1973; Meyer and Deuel 1999; Regmi 1999[1978]). Among these districts Morang, Saptari and Mahottari were highly fertile.⁸

In the mid-nineteenth century, the Rana regime sponsored settlement for Indians because several previous attempts to settle Pahadis in the Tarai had failed due to malaria, unsuitable lifestyles for hill people and an unfavorable environment. With the help of landlords from northern India, Indians were brought to southern Nepal. Between 1890 and 1930, Indians were encouraged to settle in the central-west Tarai (Gaige 1975: 25–26). Malaria-infected zones and planned settlements of Indians during the British Raj in India were partially treated as strategic by the Shah and Rana rulers. Later, the government encouraged retired Gurkha soldiers from the British and Indian armies and Nepali soldiers to settle near the border. Gaige (1975: 83) argues that the Panchayat regime used these settlers as paramilitary forces to protect dacoits and cross-border smugglers. Ex-soldiers' families apart, Nepali settlements of those who had returned from Burma and Assam (India) also grew significantly. When it comes to popular cultural perspectives, many analysts who have observed Madhes for a long time argue that Nepal-returned communities were more antagonistic to Madhesis than people who had migrated from the hills.⁹ In contrast, in relations to core power and political control, Pahadi landlords and political class are more hostile to Madhesi rights.

⁷ The Rana oligarchy was a tightly regulated regime based on hereditary prime-ministerial rule that relied on military might and British support.

⁸ These districts in today's Nepal are Jhapa, Morang, Sunsari, Saptari, Siraha, Dhanusha and Mahottari.

⁹ Interviews in Kathmandu, August 2009.

During the Rana period, individual or group rights of any kind, except religious rights in specific instances, were out of the question. After the independence of India, seeing that democracy would remain key to Madhesi rights, Madhesis worked towards the political goal of overthrowing the Rana regime. After that regime ended in early 1951, a group of Madhesi elites initiated the idea of forming a separate political party—Nepal Terai Congress (NTC)—to capitalize on the newly available political opportunities. The NTC's demands for the recognition of Hindi language gained controversy and political momentum particularly in 1957. Until 1957, the year the Nepali language became the official national language, not only was Hindi the school language in the Tarai, the education system and resource materials also heavily depended on resources from India (Dahal 1995; Pangen 2001).

The Hindi language debate that was triggered in the 1950s has hitherto not been settled. The decision of the Supreme Court in July 2009 to hold then Vice-President Parmananda Jha's oath in Hindi as "unconstitutional" is an illustration that state organs operate very much within the interests of the political class in Kathmandu and are hostile to cultural rights of other communities. In February 2010, Jha was obliged to retake the oath in Nepali. This illuminated that the state power in Kathmandu is not prepared to promote diversity and secularism coded in the IC 2007. The violent protest cycle during the run-up to the promulgation of the new Constitution in 2015 was also telling in this regard.

VIOLENCE/NON-VIOLENCE

Following the 1990 restoration of democracy, new forms of protest emerged. Before any organizations took firm shape, other groups as well as the Madhesis took to the streets to assert equality of status in the 1990 Constitution. That Constitution failed to ensure some of the core rights these groups were demanding. However, religious and cultural rights of non-Hindu groups were given some constitutional leverage for the first time. Caste/ethnic/gender groups alike, this gave

birth thereafter to a number of Madhesi organizations. Madhesis' political aspirations gradually gained some attention. While most of the new Madhesi organizations were formally and informally associated with one political party or another, they all emphasized demands such as equal status, rights to citizenship (certificates) and access to the government and legislatures, and believed primarily in non-violent means.

Apart from posing a threat to the establishment, the Maoists' armed struggle that started in 1996 gave a new turn to the formative years of democratic practices. Questions of democratization and the transformation of the social and political order vividly remained at the center of political discourse thereafter. The contention over violence and non-violence as a "means" for transformation explicitly dominated the political realm while the clear dichotomy between the two is rather blurred. For example, in the early 2000s the CPN-M framed Madhesi issues as emancipation for a "deprived class" from "internal colonization" and "second-rate nationality" (Bhattarai 2064 v.s.). Mobilizing Madhesis at a level that no party had done, the CPN-M identified Madhesi consciousness in terms of emancipation. In late 2003, and from 2005 onwards, the CPN-M experienced internal problems on the Madhesi question. That crisis led to further division among Madhesi leaders, formation of separate armed groups and gradual consolidation of anti-Maoist politics within the Madhesi struggle (see Mishra 2008).

Against that backdrop, the "non-violent" Madhesi revolt in 2007 became morally and practically backed by violence. The proliferation of armed groups with minimal and/or no political bent and criminal interest was a setback to the struggle. As the blurred relation of violence/non-violence was deeply embedded in the Madhesi struggle, campaigners advocating peaceful struggle treated proliferation of armed groups as back-up power and maintained strategic allies. Shortly, those groups exacerbated the security situation, undermined political achievements, and postponed possibilities of substantive improvement, if any. These groups contributed more to political

mayhem and less to the Madhesi cause and better governance in the region.

By the middle of 2008, various estimates suggested that the number of armed groups in the Tarai had increased to more than forty. In late 2008, the Maoist-led government invited many of these armed groups for talks. While the major groups—Jayakrishna Goit's Janatantrik Terai Mukti Morcha, Jwala Singh's Janatantrik Terai Mukti Morcha (JTMM-J), Manager Rajendra Mahato's Madhes Rashtriya Janatantrik Morcha (Krantikari)—ignored the call, several others participated in the talks. The government signed a five-point agreement with groups that came for the talks, allowing their activists to operate openly in return for cessation of armed activities. The new government formed in May 2009 decided to continue talks with some of the armed groups that had been in negotiations. On August 10, 2009, the government held negotiations with four armed groups—the Janatantrik Tarai Mukti Morcha (Rajan faction), Tarai Samyukta Janatantrik Party, Madhesi Virus Killers and Madhesi Mukti Tigers. These talks were held while the government announced a new security policy and several “encounter” killings took place.

The new security plan adopted a policy “to quell those who do not come to dialogue with force” (ACHR 2009: 10). In the absence of reliable figures, in September 2009, the Asian Centre for Human Rights (ACHR) noted that “anecdotal evidence suggests that criminal activities had dipped partially in this period” (2009: 10). A confidential Home Ministry study reported that the government had identified 109 armed groups operating in the Tarai. To improve the security situation on the ground, it envisaged the mobilization of an additional 16,000 security personnel in the Tarai and the eastern hills where a violent movement of the Limbus for autonomy got stronger in 2008–2009. It was reported that eighty of the 109 groups in the Tarai were based on Indian soil and were trained in India. Sixty of these groups wanted an autonomous Madhes province while twenty challenged the territorial integrity of Nepal (Adhikari and Ojha 2009). Prior to 2010 several human rights organizations

confirmed a bleaker picture of the security situation of that period. After documenting the extra-judicial killings that took place between February and October 2009, Advocacy Forum commented that there was a re-emergence of the so-called “encounter” killings in the region (Advocacy Forum 2010: iii).

The armed groups presented a complex problem. A good moment to deal with them would have been immediately after the CA-I elections held in April 2008 when the state had an unusually high legitimacy. The Madhesi people had made their point by participating in large numbers in that election and the armed groups were at their weakest. Given the tide of subsequent discontent in the region and the re-emergence of armed groups, that moment was lost. A security measure was necessary but any state crackdown would happen in a political context where the local Madhesi representatives were onboard. The problem was that even if a few armed groups came to the talks, their members would simply make a switch to other groups. Too many political forces had invested in the politics of division and would have liked to see the groups continue to exist as long as there was stalemate and instability in national politics. In the absence of political direction, the under-equipped, demoralized and often corrupt police force saw no incentive to confront these armed groups. And other intermediate institutions, including human rights organizations, contributed little on the ground. But after the CA-II elections held in late 2013, almost all of these armed groups lost their relevance, while making their reintegration to society slightly complicated. Consequently, violence in multiple forms have dissipated.

GOVERNANCE AND ITS CONSEQUENCES

A highly centralized state drowned in ad-hoc mechanisms but weak state organs across the country is the basis of the governance problems since the formation of the modern Nepali state in the second half of the eighteenth century. The governance problem in the Tarai is not an exception from this perspective. Rather the reach of the state in the Tarai is relatively better but its institutions

are affected by the national cultural ethos. Madhesi activists have argued that the 1961 division of Nepal into seventy-five districts and the change from seventeen to twenty districts in the Tarai was part of a calculated government decision to include Pahadis of the hills in the Tarai and to increase the dominance of hill people and their “distinctive culture, practices, and architectural style” in the plains. This has reduced the “chances of plains people to play any decisive roles in the political arena and the governance system in their own area” (Sah 2006: 2). However, the internal history of the pre-Gorkha states suggests that the existing area of the Tarai was not a single administrative region anytime in the historical past. There were deeper consequences of the multiple legal provisions and culturally embedded policies than what is being argued.

Development and nationalism was the two-core rhetoric of the Panchayat state. After 1990, two understandings relating to development/under-development occupied the intellectual domain. First, though development projects are carried out in specific locations, development has effects that are cultural (Pigg 1992). Second, the social hierarchies and national political life are affected by the processes of development and the center-periphery relations of global capitalist order (Mishra 2007). Despite being insightful, these ideas do not adequately capture the complex social process of an institutionalized national code shaping cultural-political transformation both at the national and local levels. For example, people in the Tarai were deprived of the national citizenship cards—Nagarikatako Pramanpatra (NP)—on the alleged grounds of being “Indian” or “alien.” The creation of the legal eligibility of national membership became instrumental in reproducing dominant cultural ethos, eventually turning the NP into a symbolic document of national allegiance and subsequently into a source of conflict. The pertinent idea of “distributing development” or “taking development to grassroots” did not grasp the complexity embedded in practices of citizenship. To elaborate further: with noted discrimination with respect to gender, the 1952 Nepal Citizenship Act (NCA) was

relatively relaxed in terms of membership eligibility. In 1964, the newly introduced NCA included provisions such as “a person of Nepali origin” and “citizenship by descent” but it omitted the “birth right” clause.¹⁰ “Nepali origin” was left undefined in all law and by-laws throughout, so that Madhesis who were thought of being of “Indian origin” would easily be denied access to the NP. In its naturalization category, among others, provision of “one who can speak and write Nepali language” was also introduced, and while distributing NP, both the Nepali language and “origin” provision were arbitrarily operated in the Tarai, especially for the poor and vulnerable and non-Nepali speaking communities (Gautam 2008a: 125–130). Moreover, a significant proportion of the Madhesis were encouraged to acquire NP on birth right, which would later create difficulties for their offspring to have access to citizenship by descent. Beyond national artifice, the process of distributing NP created a vicious cycle of exclusion, thereby ascribing Madhesis second-rate status.

The tacit prerequisite of the Nepali language in the region consisting of speakers as diverse as Maithili, Bhojpuri, Awadhi, Urdu and Hindi eventually unfolded grave consequences. While formal education had yet to take root across the region and resource materials in the Nepali language had just begun to materialize, the precondition of command over Nepali in the early 1960s had an immediate impact on regulating flow of resources and land ownership. Legal provisions that complicated the process of acquiring NP could easily put off the larger population from owning land. Such a process was bound to get support from the landlords and the political class that owned land in the Tarai or were migrating from the hills.

In addition, the Tarai has long been the main economic base of Nepal—agricultural and industrial. However, due to ecological degradation and deforestation, badly planned agro-economy, poorly

¹⁰ Due to a technicality, the birth right claim became optional only to those who were born between 1962 [the year the Panchayat constitution was promulgated] and 1964.

planned irrigation and unplanned farming, it no longer produces an agricultural surplus. The decline of productivity over the last few decades also means that Madhesis have to vie for livelihoods in other sectors but most end up having to migrate to India, Malaysia and the Gulf countries. This process is constantly reshuffling the traditional order.

Furthermore, the increased armed activities, particularly between 2003 and 2008, had severely damaged the survival possibility of medium and small-scale industries in the region. It has also discouraged large-scale investment and industrial growth, reducing the chances of employment creation and capital investment, if any. Big industrialists accept the fact that the large corporations in Kathmandu have earned fortunes during the Maoist armed struggle at the cost of small and medium industries and most of the industries in the Tarai relying on domestic raw materials have suffered massively due to the conflict and instability.¹¹ The economy, and the production process in particular, is yet to bounce back from these setbacks.

The economy in the Tarai is hollowing out and like in other areas remittances are increasingly becoming the main economic support base of the people. The recent data reveals that eleven districts of the Tarai are the highest remittances yielding districts of the country. In the last two decades, migration to India and other countries and the free flow of remittances have contributed to several new patterns: rapid increase in the free flow of money and capital, change in power-relation at local levels and the rise of the middle class that is gradually aiming for political status. But the economic conditions of the vulnerable groups such as Dalits and Muslims are not encouraging. The *Nepal Human Development Report 2009* points out that the people of three caste and ethnic groups—Madhesi Brahman/Chhetri, Newar and hill Brahman—have a higher Human Development Index (HDI) value (0.6 and above) than that of Dalits and *Janajatis*, both from the hills and the Tarai. Muslims have an

¹¹ Interviews in Kathmandu, August 2008.

index value of 0.401, lower than that for Dalits as a whole (0.424), but higher than Madhesi Dalits (0.383) [UNDP 2009: 43–44].

Of the three components of the HDI, education is the most significant driver. This accounts for the wide gap between the Brahman/Chhetri and other castes. The lower HDIs for Dalits, especially Tarai Dalits and Muslims, derive largely from their very low educational attainment compared to other components of the HDI (UNDP 2009: 42). The Maoists' armed struggle, which opened up new avenues and opportunities for the alienated and excluded groups and provided their struggle with a national framework, had no substantive contribution on socio-economic fronts. All these laid ground for the rise of new politics in the region that was capitalized by middle-class Madhesis. When the process of drafting a new constitution progressed, the unprecedented "scale shift" created a "political opportunity structure" that was not fully capitalized by the Madhesi parties beyond a new protest cycle. Yet, Madhesi parties have emerged as a regional force governing in the Madhes Province but without making any radical redress where common people can realize quality of services and life chances.

EMERGING POLITICAL PARTIES

Madhesi parties by now have successfully emerged as a regional political force but they clearly lack any radical redress. While they have converted themselves from Madhesi parties to Madhes-based parties, they have also split into many small parties following petty difference and conflicts. In the elections between 2008 and 2017, the number of seats the Madhesi parties have won have fluctuated significantly. However, the fragmentations they have gone through have not dramatically affected the total vote percentage of the Madhesi niche. This ensures their regional emergence, indicating that Madhesi people want to explicitly vote for representatives from their own communities. After 2017, and following the subsequent splits and mergers of several Madhes-based parties, the regional equilibrium of the political forces is appearing to settle along with

two main political formations: an “upper” caste-based “democratic” conglomeration and a “middle” caste-based “socialist” inclination. This has left “lower” caste and “untouchable” constituents open, making caste-class representation in the region deeply contentious. Such a search for a radical transformation, at times, creates different tides of ephemeral calls including CK Raut’s radical call for a “separate” country and a call to form Dalit-based and Muslim-based political parties.

Aided by the tide of a decade of armed struggle that followed the People’s Movement and the Madhesi revolt, the CA-I polls in 2008 threw up a surprise result. The Maoists did phenomenally well nation-wide and the Madhesi parties did well in the plains. The radical wave of socio-political transformation and promises for a fundamental redress played a role among voters. Aspirations for a new socio-political order played a major role across Nepal and in the plains, a surge of “Madhesi consciousness” became an overriding theme along with caste interests. As class and its entangled politics particularly along indigenous and gender lines have been seriously undermined, the contentious politics in the region is bound to face deeper upsurge from unexpected quarters.

In the CA-I elections the three Madhesi parties—MJF that became synonymous with the Madhesi revolt; Tarai-Madhes Loktantrik Party (TMLP) that emerged to balance regional politics; and Sadbhawana Party (SP) that is the main remnant of Nepal Sadbhawana Party (NSP)—did well. Without keeping a united pre-poll alliance, MJF won fifty-two seats and clearly emerged as the main and largest regional party. MJF did particularly well in districts like Morang, Sunsari, Saptari and Siraha and won a few seats in the western and far western districts as well. TMLP, the party formed three months before the CA-I elections, did well by winning twenty-one seats. It did particularly well in districts like Nawalparasi and Kapilvastu. The SP did not do too badly for a party that went through a series of internal rifts and splits. It won nine seats picking up votes in the proportional representation category. The total tally of the

Madhesi forces was eighty-two. Beyond the Madhesi parties other political parties were also bound to put forth Madhesi candidates in the region. As a result Madhesi political representation across the parties was unprecedented. There were more than 200 Madhesi members in CA-I with 601 members.

The failure of CA-I was intertwined with the failure of the Maoist and the Madhesi forces as they could not progressively shape the course of radical redress. This was reflected in the results of the CA-II elections. The Maoists did poorly across the nation and the Madhesi parties posted an average result with a total tally of just sixty-two members. Their relatively limited presence in CA-II and their weak commitment to socio-political transformation put them on the defensive. In 2015, as the CPN-M shifted its alliance with the ruling parties, claiming that a political settlement is “urgent” to promulgate a new constitution, the Madhesi parties entered into a protest cycle. They challenged what was then called a “fast track” constitution, highlighting the violations of the constitution drafting process and pointing out that several provisions in the new draft were “regressive” compared to those in the IC 2007. Their demand revolved around four contentious issues : 1) equal rights to citizenship (certificate); 2) inclusion in state institutions; 3) proportional representation and electoral realignment; and 4) federal demarcation. The protest cycle began because the Madhesi parties were excluded from the sixteen-point political agreement signed by the four main parties on June 8, 2015. This agreement became a basis to draft the new constitution, crushing all types of dissents and agitations. In an almost eight-month long protest across the Madhes, curfew and violent clashes between the protesters and the police became a regular action, with over thirty-five civilian and nine police deaths. The most scandalous episode during this passage was a six-month long blockade imposed by India that affected Nepal’s economic and social life, further dividing and polarizing the nation. The blockade explicitly contributed to strengthening prevailing stereotyped public meanings of how the “Madhesi” is portrayed

and perceived. Despite India's blockade and months-long protest cycles, Madhesi parties' call, first to "rewrite" the constitution and then to make "fundamental amendments" in it, remained unheard. They were conditioned to participate in the first ever elections to the three-tier governments in a federated Nepal in 2017 despite having called the 2015 Constitution "unacceptable."

Although the Madhesi parties faced criticism from different quarters in the plains itself, in the 2017 provincial elections they clearly emerged as a regional force. Securing thirty-nine out of 107 provincial seats, the People's Socialist Party emerged as a clear winner. Loktantrik Samajbadi Party secured sixteen seats. Including one seat of Nepal Federal Socialist Party, the total tally of the Madhesi parties was fifty-six. Compared to the rest of Nepal, the Madhes became the only province to ensure the emergence of regional parties, thereby making it possible for them to lead a provincial government. At the federal parliament, however, the Madhesi parties were limited to just thirty-four seats. Their overall representation across parties is seventy-eight in the federal parliament with 275 members.

Looking back, Nepal Terai Congress (NTC) faced a bitter defeat in the 1959 elections and the NSP performed poorly throughout the 1990s. The political parties or groups that formed during the 1950s either amalgamated themselves into the Panchayat system or their political mobilization got totally dispersed. Before fading away from the political scene they did sow seeds that yielded decades later. The 1950s experienced two major trends in Madhesi politics: 1) moderate but submissive politics of the NTC; and 2) radical but dubious politics of Raghunath Thakur. Among the NTC demands—access to state institutions, the recognition of Hindi language and an autonomous Tarai state—Hindi language gained some political momentum in 1957. However, Raghunath Thakur's reiteration of "Madhesi consciousness" had underlying effects on Madhesi politics.

The NSP—set up as a "cultural" group in 1983 and transformed into a party after the democratic opening of 1990—was for a long time the only Madhesi party. Despite this, it failed to capitalize

during the tide of Madhesi consciousness. Its poor framing of long standing issues and hunger for co-optation but above all its weaker engagements with urgent political issues contributed to its failure. The January 2007 “scale shift” rather transformed the MJF—set up as a research outfit on Madhesi affairs in 1998—into a political party. The MJF successfully created an image of being the voice of Madhesi interests and it has the best organization among the three parties in its new variant as the People’s Socialist Party.¹² To counter-balance newly emerging power-relations both in Kathmandu and the Tarai the third party that came into being was the Tarai Madhes Loktantrik Party (TMLP), now identified as Loktantrik Samajbadi Party.¹³ The party is relatively moderate and is seen as an upper-caste conglomeration influenced by India. It has played an important role in keeping the center-space in Madhes alive by restraining inter-communal tension. Its attempts to portray itself as the real voice of the Madhesis finally turned ersatz as it succumbed to pressures from Delhi and Kathmandu (and financial challenges) and joined a deeply controversial government in May 2009. It succumbed further in 2020 to the KP Oli-led government that dissolved the federal parliament, as India did not want it to join the alliance led by Nepali Congress and the Maoists.

Although there was a briefly such attempt in 2020, Madhesi leaders who come from diametrically opposed ideological origins have failed to form a coherent single party. Their parties are riddled with internal contradictions based more on caste and personal tussles and less on ideology. Beyond internal contradictions, they may share a cooperative and conflictual relationship depending on time and context. As they are competing for the same political space,

¹² In June 2009 it had already faced a split as twenty-seven Members of Parliament led by Bijay Kumar Gachhadar formed a new party—Madhesi Janadhikar Forum (Democratic). In October 2017, this party was merged with Nepali Congress.

¹³ In December 2010, the TMLP broke up into two factions as the Mahendra Raya Yadav-led faction formed a new party, Tarai Madhes Loktantrik Party-Nepal.

and as pan-Madhese politics give way to assertive and fragmented caste politics and economic inequalities, conflict between and among different parties representing different caste and class groups will become inevitable.

FURTHER CONCERNS

In early 2007, Madhese showed aggressive antagonism against the Nepali media and human rights organizations. Other than long-standing grievances, manifestation of antagonism had immediate reasons. These included: 1) lack of authentic and adequate media coverage of Madhese political activities; 2) highlighting of the use of violence by right-wing forces despite the fact that their infiltration was done to sabotage the Madhese struggle and the larger political process; 3) the subjectivity of media practitioners that undermined their objectivity due to their cultural ethos; and 4) the popular belief in the Madhes that the lack of better coverage is driven by Kathmandu's systematic interests. The national media then clearly reiterated the myths and symbols of nationalism propagated by the dominant class derived out of their cultural ethos with respect to their understanding of Madhese (cf. Gautam 2008b). The Madhese revolt, however, forced the Nepali media to see the realities differently. Yet, during the passage to the new constitution in 2015, the coverage in Nepali media and situation reports by several human rights organizations suggested that the cultural discriminations are deep and changes that have embraced an inclusive polity are hard to come by.

Such a stark reality in itself was the rationale for including particular social groups both within and outside state institutions. Drawing on lessons from India, Zoya Hasan argues for advancement of two major reasons for focusing on the politics of inclusion: First, the increased presence of historically excluded groups is a sign of inclusiveness of public institutions, and this, in turn, is an important marker of the fairness of democratic regimes. Second, greater inclusion of excluded groups in decision making institutions would

provide these bodies with the presence of people who can articulate the interest of these sections, which may otherwise be neglected by default (Hasan 2009: 2).

In the Madhes, exclusion of various forms has led to the denial of status and of opportunities, consequently generating a feeling of powerlessness. Rightly drawing attention to various dimensions of social exclusion, Amartya Sen argues that “low income, low merit, or low productivity are not the causes but the consequences of such exclusion” (quoted in Hasan 2009: 2). These considerations suggest actions to ensure opportunities are more acute and complex. It reminds us that identity is blurred and changing and it often interacts with social phenomena such as migration, cultural structure such as citizenship certificates, and political phenomena of claims and counter-claims. In this process the Madhesi parties are constantly proposing would-be solutions to differentiations, disparities, and inequalities once they become state actors. But their “politics of presence” is not beyond conventional politics. Due to lack of an alternative imagination, the Madhesi parties have already failed since 2008 to propose convincing resolutions and transformative commitments. Their framing of collective identity and access to state power lack commitment to radical redress. They are deeply affected by the broader political process and the changing structures of larger polity. They are major but weak actors because their political presence lacks vision. In addition, caste-conglomeration such as that of Yadavs and the so-called upper caste, and pseudo-Madhesi such as Bijay Kumar Gachhadar has hijacked Madhesi politics, blurring the “Madhesi” category. Just as in India, such a scenario has taken Nepal back to the question “whether to identify groups based on their historically deprived status with reference to the specific criteria of rituals and social exclusion, or more broadly in terms of deprivation established by a combination of criteria of social, economic, and cultural backwardness” (Hasan 2009: 7). While concern about how to identify groups is crucial, as Fraser argues, “we need a way of rethinking the politics of recognition in a way

that can ... be integrated with struggles for redistribution, rather than displacing and undermining them ... [and] can accommodate the full complexity of social identities, instead of one that promotes reification and separatism” (Fraser 2000: 109).

Madhesi campaigners are trying to frame the Tarai as a continuous geographical region and Madhesis as “modular” groups. This desire to expand Madhesi-ness beyond its reach has become doubly unfortunate: being casteist and communal by undermining Dalit and Tharu (also women and Muslim) aspirations and constantly undermining their struggles for economic justice. Madhesi political parties are drawing upon exclusionary strategies that the so-called Pahadi rulers followed in the past: attempts to establish a “modular” group; exploit caste, ethnicity and gender to grab power; create further divides at the cost of economic inequalities so that a small clique can benefit; severely resist substantial change and the devolution of power; and favor ad-hoc style of governing. In addition, armed groups’ rampant extortion, abduction and killings only exacerbated the political issues. They also emerged after Madhesi political agendas gained wider currency in national politics—contrary to other armed struggles in Nepal’s political history where weapons were used to establish their political agendas at the national level. Such an underestimation of the political process has severely affected Madhesi politics or what many believed to be the rise of “Madhesi nationalism” (Shah 2007). Despite CK Raut’s call for “autonomy,” yet the way he succumbed to Kathmandu and his subsequent attempts to reassert his politics by orchestrating a “peasant uprising,” in many ways, resemble underestimations of the aspirations of the common Madhesis, thus questioning politics to populism.

Devolution of power remains a center of contention. Indigenous groups alike, the Madhesis assumed the provisions for autonomy and federalism as ideal solutions. Whether a contested federal idea earlier or the one that is in effect in the Madhes Pradesh, local power is hitherto championed within a majoritarian concept: exclusive groups define the order to maintain their dominance and the

production of minorities. Contrary to this, embedded in the notion of federalism is the wish for the rearrangement of power between the center and the local and redistribution of resources for all groups, particularly the poor and under-privileged ones.

To materialize the transformation in structures and institutions, the politics of presence is necessary but not sufficient. Federalism across Nepal, and in the Madhes Pradesh too, is not geared towards addressing socio-economic conditions of the under-privileged class who are materially and politically poor. Madhesi parties are in an advantageous position to take charge of this role and to demonstrate what federalism could mean for the excluded communities in the region. For this, Madhesis have to envisage politics beyond the existing frame and opt for better alternatives. Otherwise the constitutional provisions and/or public policies that might mitigate group conflicts for the time being will become a source of conflict in the future.

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