CHAPTER – IV
CHAPTER – 4
THE STRUGGLE FOR RECOGNITION

This chapter examines the provisions of 1990 Constitution of Nepal in relation to the Indo-Nepalese people. Subsequently, an attempt is made to identify the causes and factors of ‘discrimination’. The issue of citizenship, language, access to employment and political representation are examined from a historical perspective. Finally, the Chapter makes an assessment of the struggle against ‘discrimination’.

Areas of Constitutional Discrimination

In this section an attempt is made to analyze the provisions of ‘discrimination’ in the 1990 Constitution against the Indo-Nepalese. Three provisions of the Constitution: the provisions on religion; on language; and on citizenship are examined. It shall be argued that all the three provisions are discriminatory in nature against the Indo-Nepalese; the provisions on citizenship have been emphasized.

A quick survey of the Constitution would show as though no discrimination against the Indo-Nepalese exists, as some would assert. However, a close study of the constitutional provisions would reveal that there exist some provisions that are discriminatory in nature against the Indo-Nepalese. But to say that these provisions

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Personal interview with Shashi Kant Agrawal, Kathmandu, 31st July 2003. He also said that there is ‘no legal discrimination’.
were inserted purely by targeting against the Indo-Nepalese may not be right. Critics have been pointing out ‘discriminatory provisions’ in the present Constitution. The Nepal Federation of Indigenous Nationalities (NEFIN) has identified 27 Articles and Sub-Articles of the 1990 Constitution and 9 sections of the New National Code and more than three dozens of Special Acts as having provisions that discriminate against indigenous peoples/nationalities.\(^{2}\) Mahendra Lawoti in a report has identified three areas of discrimination under the present constitution against the ‘indigenous people’.\(^{3}\) Some of these discriminations are also against the Indo-Nepalese. Lawoti has reported that:

Declaration of Nepal as a Hindu state, treatment of *Khas-Nepali* language as the language of the nation (and according it primacy) while calling other native languages as national languages, restriction of instruction in native languages up to primary level only, and prohibition of political parties based on religion, caste and community are some of the examples of constitutional discriminatory measures.\(^{4}\)

**Religious Discrimination**

The 1962 Constitution defined Nepal as ‘an independent, indivisible and sovereign monarchical Hindu Kingdom’ [Article 3(1)].\(^{5}\) An important change in the 1990 Constitution was the inclusion of ‘multi-ethnic, multi-lingual, democratic,

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\(^{4}\) Ibid.

independent, indivisible, sovereign, Hindu and Constitutional Monarchical Kingdom' [Article 4(1)].

The 1990 Constitution retained Nepal as a 'Hindu' state. However, the Constitution for the first time recognized Nepal as a multi-ethnic and multilingual nation. By proclaiming Nepal as a 'multi-ethnic' and 'multi-lingual', the Constitution recognizes the minorities both as ethnic and linguistic groups. Thus, the Constitution framers have restored the rights of the minorities in the country's rule of law. However, this has fall-short of declaring Nepal as a multi-religious country. It may be pointed out that the introduction of Nepal as a 'Hindu Kingdom' in the Constitution was an end result of a heated debate between proponents of a secular state and proponents of a Hindu state.

Some of the Nepali Constitution experts are of the view that by introducing Nepal as a 'Hindu Kingdom' in the Constitution, it does not stand against the Right to Religion under Article 19 and in no way make Nepal 'a theocratic state, nor is the Hindu king a religious head of the state administering Hindu dharmashastras, and accountable only to God', but 'is only to give continuity to the history of Nepal as Hindu state, although the rationale behind this formulation may be questionable'. However, everyone does not agree to this view. Some ethnic and religious minority groups, activists and scholars are of the view that by declaring

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8 Surya PS Dhungel, Bipin Adhikari, BP Bhandari, and Chris Murgatroyd, Commentary on the Nepalese Constitution (Kathmandu: DeLF, 1998), pp. 75-76.
9 Even during the drafting of the Constitution, those demanding for a secular state included Buddhists, Muslims, Christians associations, ethnic organizations representing the predominantly
Nepal as Hindu Kingdom, other religions are being ‘discriminated’. Thus, Lawoti in the report has pointed out that:

By declaring Nepal a Hindu state, the Constitution discriminates against other native religions. The Constitution itself is, hence, communal. Hindu norms and values have become the norms and values of the state. Many of the festivals and traditions have been interpreted as Hindu culture. ³⁰

This view is held by other scholars. In a study of religious minorities in Nepal, Mollica Dastidar points out that:

Hinduism remained the state religion maintaining Nepal’s status of a Hindu State and remains so even under 1990 Constitution. Though the 1963 legal code gave religious freedom, yet nobody is allowed to preach Islam and Christianity to destroy the dharma practiced by the Hindu people. If anybody attempts to convert people, he should be imprisoned for three years.¹¹

Some Muslims at Birgunj and Janakpur resent the non-recognition of Muslim festivals by the Nepali State. Nizamuddin Samani, the district president of NSP (Anand Devi) told this researcher that the government is yet to recognise the education certificates of the Madrassas and declare official holidays for Muslim festivals.¹² Other Muslims at Janakpur also expressed similar views.

It is true that a number of Indo-Nepalese population are Hindus and thus this provision do not stand against them. However, a number of Indo-Nepalese

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¹⁰ The report further says that the ‘government allocates budgets every year in promotion for Hindu religion but does not allocate any resources for other religions. Books on Hindu religion is published and distributed by the Royal Nepal Academy whereas books in other religions are not. Hindu religion gets 90 percent of the time allocated for religion in the state owned Radio Nepal while some religions do not get any time at all.’ Lawoti, n. 3.


¹² Personal interview with Nizamuddin Samani, Birgunj, 9 June, 2005.
follow religion such as Islam, Jainism and Sikhism. Thus, the status of Hindu religion accorded in the Constitution stands discriminatory against the Indo-Nepalese who follow religion other than Hinduism. According to the 2001 census, over 20 percent of the population practice faiths other than Hinduism.

Linguistic Discrimination

Another area of discrimination in the 1990 Constitution is in the language provisions. Article 6(1) of the Constitution declares Nepali ‘in Devnagari script’ as ‘the official language’. Whereas, ‘All the languages of the nation’ as ‘national languages’ [Article 6(2)]. Critics point out that the Constitution is ‘ambiguous in its treatment of language’. While Nepal is defined as a multi-lingual state in Article 4, the other languages (122 living languages) are treated differently.15 By categorizing Nepali differently, Lawoti points out, it bestows special importance to Nepali. Krishna Bhattachan is of the view that the Constitution ‘differentiated between Nation’s Language and National Language’.16 Likewise, only the Devnagari script has been treated as the Nepali script while other scripts of the country are not.17 This discriminatory measure has been clearly shown when the Supreme Court in a judgment that nullified the declaration of Nepal Bhasa in

13 The Constitution of the Kingdom of Nepal (1990), n. 6.
15 Cited in Ibid.
16 Bhattachan, n. 2, p. 49.
17 Lawoti, n. 3.
Kathmandu Metropolis and Maithili in Dhanusa District Development Committee and Rajbiraj Municipality as additional languages in 1 June 1999.18

It is interesting to note that Article 18(2) of the Constitution says: ‘Each community shall have the right to establish schools for imparting education in the mother tongue of the concerned child’.19 Although this provision provides rights for imparting education in one’s own mother tongues, some argue that the constitution is ‘inexplicit as to how these national languages would be promoted and protected’. The constitution also provides no ‘guarantee of support from the state for their development’.20 Lawoti has reported that:

Article 18(2) of the Constitution does not sanction native language instructions in schools beyond primary level. It does not even recognize education conducted at madrassas and Buddhist monasteries. On the other hand, the government spends millions of rupees for the Sanskrit pathsalas and the Sanskrit University whose beneficiaries are male Brahmins. In addition, by imposing compulsory Sanskrit all over the country, the state is systematically imposing Hindu values and ways on non-Hindu communities.21

Thus, it is clearly evident that other languages of Nepal are not given the same status as Nepali under the Constitution.

Citizenship Discrimination

Article 8 of the 1990 Constitution that deals with citizenship states:

Following persons, who have their permanent residence in Nepal, shall be deemed to be the citizens of Nepal:

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18 Bhattachan, n. 2, p. 49.
19 The Constitution of the Kingdom of Nepal (1990), n. 6.
21 Lawoti, n. 3.
(a) A person who is a citizen of Nepal, pursuant to the provision of either Article 7 of the Constitution of Nepal, 1962 or Section 3 of Nepal Citizenship Act, 1964.

(b) A person who is a naturalized citizen of Nepal, pursuant to the Provisions of Section 6 of Nepal Citizenship Act, 1964.22

According to Article 8, a person whose parents had acquired Nepali citizenship before 1962 can only acquire birth citizenship of the country. Thus, limiting birthright citizenship to the year 1962. According to Lawoti, 'because of this article, those who were born before that period but had not taken citizenship at that time are denied citizenship'. The landless and nomad indigenous peoples were most affected by this provision because they or their ancestors did not obtain citizenship certificates owing to their nomadic lifestyles.23 This problem is also found in the case of the Indo-Nepalese. Hari Bansh Jha in a study found out that some Indo-Nepalese were denied citizenship because their parents did not hold citizenship certificates.24 This problem seems to be more serious among Indo-Nepalese Dalits and illiterate farmers. Padma Lal Bishwakarma points out that some children of Madhesi Dalits 'do not get citizenship certificates just because of their unknown fathers'.25

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23 Lawoti, n. 3.
24 Jha, n. 20, p. 71.
Article 9(4) that deals with acquisition of citizenship, states:

After the commencement of this Constitution, law may regulate the acquisition of the citizenship of Nepal by foreigners, besides other matters on the fulfillment of the following conditions:
(a) He can read and write the national language of Nepal;
(b) Is engaged in an occupation in Nepal;
(c) Has renounced his present citizenship;
(d) Has resided in Nepal for at least fifteen years.26

According to article 9.4.a of the Constitution, only those foreigners/persons can acquire Nepali citizenship who knows Khas-Nepali language written in Devangiri script. 'The same opportunity is not provided to any one knowing any of the other 100 native languages of the country'.27 Most of the Indo-Nepalese speak languages other than Nepali as their first or second language. Perhaps, the constitutional framers had not paid enough sensitivity to the minority languages. The consequence of denial of citizenship has created numerous problems for those without it. H. B. Jha identified four problems; first, they were not eligible to apply for service in government, public and private institutions. Secondly, as Nepali citizens can only run industry and trade, they cannot undertake such activities. Thirdly, this also creates a vulnerable position 'to be treated as foreigner'. Fourthly, 'the denial of citizenship is the denial of the basic human rights to hold property' as no person without citizenship can purchase land in Nepal.28

To sum up this section, it is evident that constitutional provisions on religion, language and citizenship are 'discriminatory' in nature against the Indo-

27 Lawoti, n. 3.
28 Jha, n. 20, p. 72.
Nepalese as is with the 'indigenous' peoples. However, the most evident is the citizenship provisions which are clearly discriminatory, as a large number of the Indo-Nepalese population speak languages other than Nepali language.

**Causes and Factors of Discrimination**

This section attempts to identify the causes and factors of 'discrimination' against the Indo-Nepalese. Development of social perceptions of the Paharis towards the Indo-Nepalese is examined from a historical perspective to find out the root causes of 'discrimination'. It shall be argued that misperceptions and perceptions were reinforced by social, political, and geographical factors.

**Historical Factors**

The process of Nepal's 'unification' was centered in the hills and the Paharis. This had resulted in projecting the Paharis and their culture as the national culture and the Paharis as the representatives of Nepal's social and political culture. The Indo-Nepalese who had largely remained out of the whole process because of geographical and historical reasons were seen as having no connection with Nepal's history. Again, the Tarai region, where majority of the Indo-Nepalese have been concentrated had never been treated as 'Nepali' in the traditional Parbhatiya's nationalist perception but was seen as an extension of 'Indian culture'. According to some scholars, the Tarai inhabitants favoured the British against the Gurkha rulers during the war of 1814-16.\(^{29}\) It is then easy to say that perhaps this could be

\(^{29}\) Jha, n. 20, p. 36.
a reason for Nepali rulers to have developed a suspicion on the loyalty of the Tarai inhabitants. However, the agreement between the British and the Raja of Nepal after the war is vague on the issue. Under Article 7 of the Memorandum for the approval and acceptance of the Rajah of Nepal on 8 December 1816 stated:

... the Rajah of Nipal agrees to refrain from prosecuting any individual of the Tarai, after its revertance to his rule, on account of having favoured the cause of the British Government during the war, and should those persons, excepting the cultivators of the soil, be desirous of quitting their estates, and of retiring within the Company’s territories, he shall not be liable to hindrance.\(^{30}\)

The above Memorandum suggests that some individuals of the Tarai might have favoured the British during the war. However, the wording of the Memorandum leaves enough doubts to establish any conclusion. Rather, it benefits the suspicion of doubt.

Hence, the Pahari ruling-elite considered the ‘conquered’ Tarai as a ‘colony’ and the people as colonized ‘foreigners’.\(^{31}\) The existence of the passport system for the Indo-Nepalese and the Tarai people till the 1950s to visit Kathmandu was a reason for such an approach.\(^{32}\)

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\(^{30}\) Cited in Ibid.


\(^{32}\) Gaige has commented that the cultural different between the hill people and the plains people and because of the geographical isolation from Kathmandu, ‘plains people living in the tarai were considered to be least quasi-foreigners. No administrative procedure was established in the tarai to determine an individual’s status as a Nepalese or Indian subject. Therefore, except during the Shiva Ratri festivals, when Indians were allowed to make pilgrimages to Pashupatinath Temple in Kathmandu, tarai residents as well as Indians were required to stop at the border town of Birgunj to obtain a passport before proceeding to Kathmandu; passport were then checked at Chisapani Garhi on route to Kathmandu.’ See Frederick Gaige, *Regionalism and National Unity in Nepal* (London: University of California Press, 1975), p. 88.
This procedure was not modified until the early 1950s and not abandoned entirely until 1958. According to Gaige:

Before 1951 one's nationality appears to have been determined primarily on a linguistic basis. Nepalese subjects were the 'hill folk' who spoke Nepali or hill languages such as Newari, Magar, or Gurung. For this reason, passports were not required for people traveling into Kathmandu Valley from the eastern or western hills.33

Perhaps, the development of discriminatory attitude against the Indo-Nepalese by the Pahari ruling-elite was because of the 'disassociation' of the Indo-Nepalese with Nepal's history. This traditional mindset seems to continue in certain section of the Pahari ruling-elite. Krishna Khannel, thus, commented that 'in the unification process of Nepal, the hill was the main centre' and this Kathmandu valley 'medieval mindset' or the 'psychological legacy' still exists in Kathmandu.34 Krishna Hechhethu also observes that 'the history of this country is closely associated with the hill culture and Nepali-speaking people'.35 This historical factor has been reinforced by other factors.

Socio-Cultural Factors

Social perceptions and misperceptions are framed by various factors. Historically, the early contacts of the Indo-Nepalese of the Tarai with the Paharis seem to have begun with Hindu pilgrims visiting Kathmandu for religious worships during Shiva Ratri festivals. People from the poor and lower castes form large number of such visits, generally 'poorly clad'. This might have an impact on framing perception of

33 Ibid.
35 Personal interview with Krishna Hechhethu, Kathmandu, 10 August 2003.
the hill people towards the Indo-Nepalese. As V.B.S. Kansakar commented that the social contacts during such visits could 'be the reason for the development of this attitude of the hill people towards the Tarai people'.

One reason for the development of mistrust could have been linked to the involvement of the Indo-Nepalese in trading and business profession. According to C.K. Lal, the trading community has been seen as persons with no love for their nation but who exploit others for commercial gains. This perception had serious consequences. Because a large section of the Indo-Nepalese were involved in trading business, they were considered as cunning and their loyalty was believed to have depended on their commercial interests which might change when it suits them. The general perception among many Nepalese of the Indo-Nepalese community as the most efficient business community is one evident of the people's perception. This social attitude could be a factor of the result of suspicion of loyalty of the Indo-Nepalese towards Nepal rulers. Thus, C. K. Lal has observed that the perception that 'trader can sell anything' including 'their loyalty as well', was perhaps another cause for suspicion among the Nepalese ruling-elite.

Geographical Factors

The social perception of the Paharis towards the Indo-Nepalese may have also been reinforced by the climatic conditions of the Tarai. Some few decades ago, the

37 Personal interview with C.K. Lal, Kathmandú, 8 August 2003.
38 Dahal's study in the 'Indian ethnic groups' reports this social attitude of other Nepalese communities towards the Indo-Nepalese. Dilli Ram Dahal, Indian Ethnic Groups in the Nepal Tarai: A Study of Immigration Patterns and Socio-Economic Behaviour (Kathmandu: CNAS, 1978).
Madhesh or the Tarai plains was thought of by the Paharis to be a place of 'uncivilised environment' because of the hot climate and the existence of deadly malaria. This character of the land created an ill-feeling towards the region among the hill people who first came to the region. This feeling of hatred towards the land at some point might have got transmitted into social attitude of the hill people towards the people living in the 'harsh' land. Because of this reason, they migrate to hill states of India rather than settle in the Tarai. Durga P. Ojha argues that in the initial years before the eradication of Malaria in the Tarai in the 1950s, the Hill people prefer to go to the hill regions of India than to settle in the Tarai.  

Nanda R. Shrestha opines that because of the geographical nature of Madhesh, it was seen as an 'inferior' place in cultural sense. He writes that 'this (inferior) image of the Tarai could have been originally linked to its deadly malarial and relatively uncivilized environment.' Thus, C. K Lal said that 'the climatic conditions of Tarai reinforced the 'idea of Bhadesi.'

**Political factor**

The political history of Nepal is another important factor of reinforcement of the traditional mindset. C. K Lal describes it as the 'imperial reinforcement of the idea of Bhadesi'. In other words, the victory of war over the Tarai and the subsequent 'conquest' by the hill kingdoms over the Madhesh again reinforced the 'idea of

42. C.K. Lal told this researcher in the interview.
Bhadesi'. Through this political reinforcement, land of the locals were confiscated and redistributed to the court lawyers. This was justified by the policy that 'uncivilized' inhabitants need to be 'civilized'. The domestic politics in Nepal during the Panchayat period also contributed in political alienation of the Indo-Nepalese. The anti-Panchayat regime led by the Nepali Congress was largely concentrated in the Tarai with the support of the local people. Earlier, in January 1962, King Mahendra escaped an 'assassination' attempt in the Tarai. This might be one factor for the King's regime to take more hostile policies towards the Indo-Nepalese of the Tarai.

**India Factor**

Another cause of discrimination also seems to be because of the India factor. The Indo-Nepalese close affinity with India was seen as an extension of Indian culture and Indian political ideologies. K. Dev points out that the lack of confidence among the Pahari ruling class on the Madhesi is because of the close ties with India. Their loyalty was always doubted. The Rana rulers had doubted the Indo-Nepalese for their 'Indian origin'. The Ranas also feared that if 'revolutionary ideologies' get spilled over to Nepal side of the Tarai, it could be dangerous to their rule as the Tarai settlers were mostly of 'Indian origin' and their loyalty to the

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43 Ibid.
45 Gaige, n. 32, p. 107.
Nepali government was doubtful. The role of India factor has been clearly sum up in the following lines:

When the 1962 Constitution was being written, reinforcing the King’s position at the apex of Nepal’s political system, anti-Indian feeling was at its height in Kathmandu. The citizenship restrictions are to some extent at least an expression of a kind of nationalism fostered by anti-Indian feeling, a reaction among Kathmandu’s governing elite to Indian influence. And, in this respect, the plains people living in the tarai could not escape their association with India.

This political reason partly explains the objectives of categorizing a certain community as ‘Indians’.

**Monarchy**

The strong presence of the monarchy in Nepali politics throughout the history also seems to have some implications on the cause of discrimination of the Indo-Nepalese. While the monarchy is seen as the symbol of the nation, its social or marital relation with the Indo-Nepalese of the Tarai has been minimal. The result has been the dominant presence of the Paharis in the Monarchial regime. As Umesh Prasad Srivastava commented that the Monarchy has made its regime, ‘a hill dominated regime’.

To conclude, this section has established that historical, social, cultural, political, and geographical factors have played critical roles in the development of

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47 Shrestha, n. 31, p. 176.
49 Personal interview with Umesh Prasad Srivastava, Kathmandu, 31 July 2003.
discrimination of the Nepali ruling-elite against the Indo-Nepalese often reinforced by one factor or the other.

**Major issues and Challenges**

This section examines the major issues and challenges faced by the Indo-Nepalese. Problems of representation, citizenship issue, language issue, and hill migration to the Tarai are discussed. Although these issues have been raised by the Indo-Nepalese through political parties for a long time, no significant measures have been taken to resolve the problems even after the establishment of democracy in 1990.

**Representation in the power structure**

The representation of the Indo-Nepalese in the political parties, parliament, civil services, army and police continues to be low in proportion to its population. The Indo-Nepalese have been expressing deep resentment of 'discrimination' in recruitment into government jobs. The Indo-Nepalese are poor represented in the power structure for two major reasons: because the ruling-elites fear that the induction of the Indo-Nepalese in the government services may increase India's influence. Secondly, due to the Indo-Nepalese had close ties with India, their loyalty to the Nepali rulers has been suspected.

The non-representation of the Indo-Nepalese in the politico-administrative structure, in proportion to its size is a deprivation of a large section of the population in the decision-making process of the nation. As Table I and II would
show that representation in the legislature, the Indo-Nepalese and the tribal groups of the Tarai numbered 20 (18.4 per cent) of 109 in the first ever elected lower house of Parliament. This was reduced to 13 (10.4 per cent) in the single-chamber 125 member the National Panchayat in 1967. The Indo-Nepalese numbered 13 (9.62 percent) in the National Panchayat of 135 in 1977. During the Panchayat period, a large number of National Panchayat members were nominees of the King. Here also, the number of Indo-Nepalese were far less compared to the nomination from the Hill people.\textsuperscript{50}

\textbf{Table 7}

\textbf{Caste and Ethnic Composition of Nepal's Legislature (%)}

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Hill Brahmins</td>
<td>13</td>
<td>27</td>
<td>37</td>
<td>44</td>
</tr>
<tr>
<td>Hill Chhetri</td>
<td>16</td>
<td>31</td>
<td>18</td>
<td>19</td>
</tr>
<tr>
<td>Newar</td>
<td>6</td>
<td>4</td>
<td>7</td>
<td>6</td>
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<tr>
<td>Hill Ethnic group</td>
<td>21</td>
<td>16</td>
<td>17</td>
<td>12</td>
</tr>
<tr>
<td>Tarai</td>
<td>37</td>
<td>22</td>
<td>21</td>
<td>18</td>
</tr>
<tr>
<td>Others</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

Note: Tarai includes the Indo-Nepalese and the Tribal groups.

\textsuperscript{50} Parmanand, ‘The Indian Community in Nepal and the Nepalese Community in India’, \textit{Asian Survey}, vol. XXVI, no. 9, September 1986, p. 1014.
Table 8
Representation of different groups in Parliament (number)

<table>
<thead>
<tr>
<th></th>
<th>Brahmin/Chhetri</th>
<th>Mangol</th>
<th>Kirat</th>
<th>Madhesi</th>
<th>Dalit</th>
<th>Newar</th>
<th>Total</th>
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<tr>
<td><strong>Lower house</strong></td>
<td>105</td>
<td>45</td>
<td>11</td>
<td>24</td>
<td>0</td>
<td>20</td>
<td>205</td>
</tr>
<tr>
<td><strong>Upper house</strong></td>
<td>20</td>
<td>11</td>
<td>4</td>
<td>12</td>
<td>4</td>
<td>9</td>
<td>60</td>
</tr>
</tbody>
</table>


After multiparty democracy was restored in 1990, the representation in the parliament did not changed. For instance, in 1991 legislature, the Indo-Nepalese were only 10 per cent of the total members of Parliament (See table 2). In 2000, the Indo-Nepalese in the lower house of Parliament numbered about 41 (20 per cent) of the 205 members of Parliament\(^{51}\). The number of council of Ministers in 2000 was 5 (20 per cent) of the total 25 ministers\(^{52}\).

An important reason for the low number of representation in the national legislature is because constituencies have been so designed that the Tarai districts despite having more population were put at a disadvantage.\(^{53}\) For instance, Manang, a hill constituency with a population of 10,000 sends one representative to the National Panchayat, whereas Dhanusha and Saptari, both from the Tarai districts with population of 330,600 and 312,500 respectively, send two representatives each.

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\(^{52}\) Ibid., p. 76.

\(^{53}\) Parmanand, n. 50, p. 1013.
Table 9
Integrated National Index of Governance, 1999

<table>
<thead>
<tr>
<th>Institutions</th>
<th>CHHE</th>
<th>Dalits</th>
<th>Madhesi</th>
<th>Newar</th>
<th>I.N</th>
<th>Other</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>#   %</td>
<td>#   %</td>
<td>#   %</td>
<td>#   %</td>
<td>#   %</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Judiciary: Supreme, Appellate, District</td>
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<td>0 0</td>
<td>18 7.7</td>
<td>32 13.6</td>
<td>4 1.7</td>
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<td>Constitutional Commissions</td>
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<td>6 24.0</td>
<td>2 8.0</td>
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<td>Cabinet</td>
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<td>0 0</td>
<td>5 15.6</td>
<td>3 9.4</td>
<td>4 12.5</td>
<td></td>
<td>32</td>
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<tr>
<td>Parliament: Lower and Upper</td>
<td>159 60.0</td>
<td>4 1.5</td>
<td>46 17.4</td>
<td>20 7.6</td>
<td>36 13.6</td>
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<td>265</td>
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<td>Civil Service and Security Force Elite</td>
<td>190 77.6</td>
<td>0 0</td>
<td>9 3.7</td>
<td>43 17.6</td>
<td>3 1.2</td>
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<tr>
<td>Central Committee of National Parties</td>
<td>97 58.8</td>
<td>0 0</td>
<td>26 17.8</td>
<td>18 10.9</td>
<td>25 15.2</td>
<td></td>
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<td>DDC Chair/ Vice, Mayor/Deputy</td>
<td>106 55.5</td>
<td>0 0</td>
<td>31 16.2</td>
<td>30 15.7</td>
<td>23 12.0</td>
<td></td>
<td>191</td>
</tr>
<tr>
<td>Industry/Commerce Leadership</td>
<td>7 26.7</td>
<td>0 0</td>
<td>15 35.7</td>
<td>20 47.6</td>
<td>0 0.0</td>
<td></td>
<td>42</td>
</tr>
<tr>
<td>Educational Leadership</td>
<td>75 77.3</td>
<td>1 1</td>
<td>7 7.2</td>
<td>11 11.3</td>
<td>2 3.2</td>
<td>1 1</td>
<td>97</td>
</tr>
<tr>
<td>Cultural Leadership</td>
<td>85 69.1</td>
<td>0 0</td>
<td>0 0</td>
<td>22 17.9</td>
<td>6 4.9</td>
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<tr>
<td>Science/Technology Leadership</td>
<td>36 58.0</td>
<td>0 0</td>
<td>6 9.7</td>
<td>18 29.0</td>
<td>2 3.2</td>
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<tr>
<td>Civil Society Leadership</td>
<td>41 75.9</td>
<td>0 0</td>
<td>4 7.4</td>
<td>8 14.8</td>
<td>1 1.9</td>
<td></td>
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</tr>
<tr>
<td>Total</td>
<td>1,011 66.5</td>
<td>5 0.3</td>
<td>170 11.2</td>
<td>231 15.2</td>
<td>108 7.1</td>
<td>1 0</td>
<td>1,520</td>
</tr>
</tbody>
</table>

Percentage (a) 66.5 0.3 11.2 15.2 7.1 0 100
Population % (b) 31.6 8.7 30.9 5.6 22.2 0.1 100
Difference % (a-b) +34.9 -8.4 -19.7 +9.6 -15.1 -1
Domination ratio (a/b) 2.1 0.03 0.36 2.71 0.32


Note: * I.N = Indigenous Nationalities; CHHE = Caste Hill Hindu Elite; and DDC = District Development Committee.
* Madhesi includes the Madhesi dalits and Madhesi indigenous nationalities.
* The population percentage in this table is based on the 1991 census.
Besides, the proportion of the Indo-Nepalese in the police force was about 2 percent, while in the Royal Nepalese Army, their number is negligible. In the administration also the number of Indo-Nepalese is very less. According to Parmanand, one reason for the low administrators among Indo-Nepalese has been because the Indo-Nepalese can be recognized during the interviews and be rejected.

Language issue

The language issue in Nepal in the context of the Indo-Nepalese is discussed here with a brief linguistic characteristic of the Indo-Nepalese. Subsequently, an analysis of language politics in Nepal is made from a historical perspective. It shall be argued that the Nepal ruling-elite perceived the use of Hindi as a form of an extension of Indian language and was seen as diluting Nepali identity.

Linguistic characteristic

The report of the National-language Policy Advisory Committee, 1993 enumerates 36 languages based on the censuses. These are classified as 19 Tibeto-Burman, 15 Indo-Aryan, one Munda and one Dravidian. Linguistically, the Indo-Nepalese belong to the Indo-Aryan language family. The Indo-Nepalese speak Maithili, Bhojpuri, Awadhi, Urdu, Bengali, Marwari and Hindi. According to 2001 census,

54 Ibid.
a population of 2,797,582 speaks Maithili as their mother tongue in Nepal. While Bhojpuri (1,712,536); Awadhi (560,744); Bengali (23,602); Urdu (174,840); Marwari (22,637) and Hindi (105,765). Awadhi, Bhojpuri and Maithili speakers are largely concentrated in eastern and middle Tarai with some moderate presence in western Tarai. Urdu is mainly spoken in the Kathmandu valley, Seti valley, Damauli, Pokhara and surrounding areas as also in Tarai; Marwari is found in the eastern part of Tarai in considerable proportion. Bengali is spoken in far eastern Tarai. Hindi is the lingua franca of the Indo-Nepalese and is found in Kathmandu valley and in the entire Tarai region.

Thus, the Indo-Nepalese are largely concentrated in the Tarai region of Nepal and with small presence in the northern region of Nepal. As Frederick Gaige points out that this correspondence between the predominance of languages spoken in the tarai and in northern Indian is an important factor of the cultural affinity between the people of both sides of the Nepal-India border.

Language politics

Language politics can be understood in its entirety by analyzing language planning and policy. A brief discussion on the language policy since 1950 would provide a clear understanding of the language politics. The language problem in Nepal began as early as 1950. After the end of Rana rule, language emerged as an issue in the

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58 Breton, n. 56, pp. 164-66.
59 Gaige, n. 32, p. 17.
new political dispensation in 1951. Various linguistic communities wanted to promote their languages. Two languages, Hindi in the Tarai and Newari in the Kathmandu Valley took the leading roles. But the new ruling-elite leadership was anxious to establish an identity for Nepal in which Nepali language was considered as a symbol for national unity and identity. However, the importance of Nepali as a national language in unifying the linguistically diverse people of Nepal has often conflicted with regional and local usages. A commission called National Education Planning Commission (NEPC) was set-up as early as 1954 which sparked off a controversy. In its report, *Education in Nepal 1956*, the commission recommended that Nepali should be the medium of instruction from third standard onwards and discouraged the teaching of other languages and said, 'they would hinder the teaching of Nepali...'. The imposition of Nepali was justified by the claim that Nepali was the closest language to Hindi. According to H. B. Jha, 'this claim, however, cannot serve as justification for denying the role of Hindi in the educational institutions'.

Till 1951, Hindi played an important role as a means of instruction in most of the school in the Tarai and was studied as a subject in educational institutions. In October 1957, the Government of Nepal issued directive ordering all schools to

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61 Ibid., p. 168.
62 Bandhu, n. 56, p. 122.
64 Gaige, n. 32, p. 108.
65 Jha, n 20, p. 23.
66 Dahal, n. 60, p. 167.
use Nepali as the medium of instruction unless they received Education Ministry permission to use another language. In addition, it ordered all teachers to demonstrate within two years their ability to use Nepali for instructional purposes and also to provide evidence of Nepali citizenship within six months which was, however, dropped in January 1959. Gaige opines that 'this could not have been enforced without closing many Tarai schools dependent on Indian teachers.'

After the dissolution of democratic government in 1960 and the establishment of King Mahendra's Panchayat System in 1962, a new definition of Nepali nationalism based on 'one nation, one people, one language, and one political system' had emerged as the new political ideology. Ram Kumar Dahal clearly illustrates the government approach towards language of Panchayat period thus:

The Panchayati rulers never accepted Nepal as (a) multi-lingual society.... Language actually was not studied in linguistic sense but strictly in socio-political sense. In the name of national integration, the process of Nepalization was launched since 1960. It tried to Panchayatize the language, culture and ethnicity. The non-party political system (1962-1989) discouraged other cultural and linguistic sentiments and no investment on development of language was made.

In 1961, the Second Education Commission recommended Nepali language as the sole medium of instruction in schools and colleges. The Education Act of 1962 legalized the Commission's recommendation regarding the medium of

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67 Gaige, n. 32, p. 111.
68 Ibid., p. 113.
69 Dahal, n. 60, p 167.
70 Ibid.
In 1964, the Nepal Company Act required all small as well as large industries to maintain their records in either Nepali or English. The 1962 Panchayat Constitution gave Nepali language the status of national language with no mention of other languages. The New Education Plan (NEP), introduced in 1971, discouraged other language except Nepali as the medium of instruction in schools, with the exception of Hindi and Newari that were prescribed as optional subjects including high-level research. Degree in other languages such as Hindi and Newari was de-recognized by the Marichman Singh Panchayat government. The Public Service Commission recognized only Nepali and English. Jha has accused that the government-owned Sajha Prakashan and the Royal Nepal Academy of been ‘biased’ in treating languages as no importance has been given to the promotion of other languages. During the Panchayat period, development of Hindi literature and publication of newspaper in Hindi were discouraged. Again, without showing any sensitivity towards the regional languages, in April 1965, Radio Nepal terminated its daily ten minutes news broadcasts in Hindi and Newari.

Language policy in Nepal has been, perhaps, insensitive towards the languages of the minorities. Critics points out that language planning in Nepal has not been ‘done properly’.

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71 Gaige, n. 32, p. 124.
72 Ibid., p. 125.
73 Dahal, n. 60, p. 168.
74 Jha, n. 20, p. 25.
75 Ibid.
76 Ibid., and Parmanand, n. 50, p. 1012.
There has been no systematic and scientific language planning in Nepal as it is in other countries of the world. Even after 1950, Nepal stressed on one language policy and encouraged Nepali undermining others. Even after the implementation of the 1990 constitution, language planning has not been done properly.  

The post 1990 government adopted ‘liberal’ language policies. This was seen in the resumption of news broadcast in Hindi, Newari, Magar and Tamang and Maithili (January 1, 1993); encouragement of local languages in the government-owned TV and radio; and the promotion of newspapers in local languages. However, the government provided no additional support for their development. The issue of medium of parliamentary debates soon emerged in the first session of the parliament in 1991. Members of the Nepal Sadbhavana Party spoke in Hindi in the parliament, which faced opposition in the beginning. However, on July 7, 1992, the third House of Representative session passed a new rule that allowed parliamentarians to use their native language apart from the national language in discussions in the House. This was described as a ‘milestone’ in Nepal’s language policy.

In response to the demands of the linguistic groups, the government appointed the National-language Policy Advisory Committee in 1993. In response to the demand from local languages speakers, Kathmandu Metropolis City had decided on 25 August 1997 to use Nepal Bhasa, followed by Dhanusha DDC on 18 November 1997 and Rajbiraj Municipality on 25 November 1997 to use

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77 Dahal, n. 60, p. 171.
78 Ibid., p. 170
79 Jha, n. 20, p. 25.
80 Ibid.
Maithili, as their official language in addition to Nepali. These decisions were legally challenged and cases were filed at the Supreme Court. A single Bench of the Court by an interim order prohibited the use of local or regional languages in March 1998. This decision caused deep resentment among the ethnic minorities. In March 2000, the Nepal Janajati Mahasangh organized a National Conference on Linguistic Rights, in which 75 organizations participated. The conference adopted four resolutions which stated:

- Adoption of a 'National Declaration on Linguistic Rights'.
- Rejection of the Supreme Court verdict as undemocratic and against the universal norms and values of human rights.
- Immediate realization of a language survey
- Formation of a Language Co-ordinating and Monitoring Committee under the convenorship of Padma Ratna Tuladhar.

However, the government of Nepal has not been able to fulfill all the demands of the linguistic minorities.

Citizenship issue

The citizenship laws of the early 1950s were 'nondiscriminatory' in nature. The Citizenship Act of 1952 declared any person a citizen who was born in Nepal, who permanently settled in Nepal, who had at least one parent in Nepal, or any woman married to a citizen. It also stated that anyone who had lived in Nepal for at least five years could acquire citizenship. According to Frederick Gaige the nondiscriminatory nature of the citizenship laws of the 1950s was because of the

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81 Karl Heinz Kramer, n. 14, p. 189.
82 Ibid.
83 Gaige, n. 32, p. 89.
influence of the Indian government and more importantly, because of the close associations of the hill people and the plains people in the politics of the period.\textsuperscript{84} Articles 7 and 8 of the 1962 Constitution dealt on citizenship in details. Article 7 was a repetition of Article 2 of the 1952 Citizenship Act; it gives qualification for those who can be classified as citizens automatically, by birth and marriage. The major difference had been in the requirements for naturalization. Article 8, section 2, of the 1962 Constitution states:

\begin{quote}
(2.) Law to be made in pursuance of clause (1) shall inter alia, stipulate that a foreigner may qualify for the acquisition of citizenship if—
(a) he can speak and write the national language of Nepal;
(b) he, engaged in an occupation, resides in Nepal;
(c) he has taken steps to renounce the citizenship of the country of which he is a citizen; and
(d) he has resided in Nepal for not less than a period of two years in case of a person of Nepalese origin, and for not less than a period of twelve years in case of a person other than of Nepalese origin.\textsuperscript{85}
\end{quote}

The provision that pertains to the knowledge of Nepali language as mandatory is against the Indo-Nepalese. Gaige argues that given the low literacy rate among the farmers it was unreasonable to expect the farmers to write Nepali, when these people do not even know how to write in their mother tongue. Secondly, as there was very few Nepali speakers in the Tarai region during the early 1960s, the interaction between the Indo-Nepalese and the Nepali speakers were very little, hence, it is difficult for the Indo-Nepalese to learn to speak

\textsuperscript{84} Ibid.
\textsuperscript{85} The Constitution of the Kingdom of Nepal 1962, n. 5.
Nepali.\textsuperscript{86} Clause (d) of Article 8 was clearly against the Indo-Nepalese. The discrimination is evident ‘more in the vagueness of the wording of the Clause than in the stated fact. ‘Nepalese origin’ is not defined in the 1962 Constitution or in the Citizenship Act of 1964; interpretation is left to official granting citizenship certificate’.\textsuperscript{87} Gaige provides two possible definitions of the term ‘Nepalese origin’. The first includes those whose ‘parents, grandparents, or even great-grandparents were born within the political borders of Nepal, which of course, include the tarai’. The second includes, ‘he, his parents, or even his more distant ancestors were born in the geocultural region called the hills’. He argues that the linguistic dimension to the definition is essentially a cultural definition rather than a politico-territorial one. Hence, this cultural definition excludes the Indo-Nepalese and the plains tribal of Tarai.

On the question of determining, who is a ‘person of Nepalese origin’, Myron Weiner points out that ‘(i)n the absence of a compulsory birth registration scheme there is now no clear and reliable method for ascertaining who is a citizen and who is not’.\textsuperscript{88} In fact, Weiner has suggested in the 1970s, that if compulsory birth registration scheme was established during that time, it would be a way of reassuring ‘Nepalese of Indian origin’ that their children’s rights as citizens would be protected.\textsuperscript{89} However, as birth registration procedures in Nepal came into force

\textsuperscript{86} Gaige, n. 32, p. 92.
\textsuperscript{87} Ibid.
\textsuperscript{89} Ibid.
only recently, applications for citizenship needs to be certified by one or two prominent persons in a locality. As a result, wealthy 'Indians' have found it easy to obtain citizenship, whereas the poor farmers and wage labourers had neither the means nor the connections to acquire such citizenship.90

The Citizenship Act of 1964 retained the twelve-year stay in Nepal for persons of 'non-Nepali origin' as an essential qualification for the acquisition of citizenship. However, the 1968 Citizenship Rules made no provision for a language test.91 The requirement for acquisition of citizenship for 'non-Nepali origin' was increased to fifteen years by the second amendment to the Panchayat constitution in 1975.92 The 1990 Constitution has retained the fifteen years stay provision for non-Nepali origin. It also retained all the provisions of Article 7 of the Constitution of Nepal, 1962 or section 3 of Nepal Citizenship Act, 1964, discussed earlier.93

Another aspect of citizenship, in as far as it complicates the nationality and citizenship status of the Indo-Nepalese is the legacy of the 1950 Treaty of Peace and Friendship between India and Nepal that provides for national treatment for each other citizens along with free movement across the border. This is also true

91 Gaige, ibid, p. 92.
93 The Constitution of the Kingdom of Nepal (1990), n. 6.
for those Nepalese settled in India as Harka Gurung observed. It is alleged that citizenship certificates were denied to Indo-Nepalese on various pretexts such as they being recent ‘immigrants’ from India. As many Indian citizens go to Nepal as migrants in search of jobs, this create problem for the Nepali officials concerned with distribution of citizenship certificates to identify who is a local Nepali and who is an Indian citizens. For instance, an Indian Maithil or an Indian Bengali is in all respect similar to a Nepali Maithil or a Nepali Bengali. Rita Manchanda points out that the ‘Indian origins label’ and the ‘open border’ traps the Indo-Nepalese into a ‘migratory discourse’.

In order to safeguard the interest of its citizens from foreigners, the lawmakers made requirement of citizenship in land acquisitions and in different working activities in the 1960s. For instance, in 1957, the government of Nepal made possession of citizenship certificate compulsory for teachers. This was incorporated in the Education code of 1961, which read, ‘first priority shall be given to Nepali citizens, and then emigrant Nepalese. If persons of either category are not available or lack essential qualifications, foreigners may be appointed on a temporary basis’. The 1961 Industrial Enterprise Act made reservation of all cottage and small-scale industries for people possessing citizenship certificates and

97 Gaige, n. 32, p. 94;
the Factory Worker Act of 1962 prohibited employment of foreigners or persons without citizenship certificates.\textsuperscript{98} Besides, in 1964, the Land Reforms Act made requirement of citizenship mandatory for land acquisition. All these above legislations caused great difficulty for the Indo-Nepalese by denying their rights as citizens. The land reforms programme was introduced in 1963-64 with the aim of achieving an equitable land ownership and tenancy system in Nepal. However, when it was implemented it seem to be aimed at the replacement of land ownership and tenants of Indo-Nepalese in the Tarai with Paharis.\textsuperscript{99} For instance, about 27,000 hectares of land was redistributed among 13,000 families. However, no such land were given to the Indo-Nepalese families. Furthermore, from the large forest cleared for resettlement in the Tarai, Indo-Nepalese had no share.\textsuperscript{100} As a result, there was large number of Indo-Nepalese who had dispossessed their land holdings and more importantly they did not acquired land from the redistributed land.

**Citizenship issue after 1990**

The issue of citizenship became highly politicized in the 1990s. The government took some steps to resolve the citizenship problem in May 1992 by announcing a new Nepal Citizenship Regulation that was to simplify the procedures of acquiring citizenship. The new Regulation vested the chairman and the vice-chairman of  

\textsuperscript{98} Uperti, n. 92, pp. 92-93.  
\textsuperscript{100} Parmanand, n. 50, p. 1010.
Village Development Committee, with the power to recommend the name of a person eligible for obtaining citizenship. The new Regulation has also drawn a new cut-off date for citizenship by birthright. It stated:

The voters list prepared for the referendum of 2037 B. S. (1979), the list prepared by the government employees deputed in all the villages to distribute citizenship certificates in 2032 B. S. (1974) and a certificate providing one’s continuous service in the government and semi-government offices will serve as basis for providing citizenship certificates under the new regulations.

The new Regulation also modified the process of naturalization. Under the new rule, any foreigner wishing to acquire naturalized citizenship of Nepal were expected to apply to the chief district officer (CDO) with recommendation of any one of the following: mayor and deputy mayor of municipality; or chairperson and vice chairperson of VDC; or chairperson and vice chairperson of DDC. However, the new citizenship rules immediately sparked off a controversy. Critics challenged the new rules on the ground of constitutional validity and filed a writ petition in the Supreme Court. The Court in an interim order postponed the distribution of citizenship certificates.

In 1994, the Communist Party of Nepal (Unified Marxist-Leninist) (CPN-UML) government constituted a High-Level Citizenship Committee under parliamentarian Dhanpati Upadhaya to look into the problem of citizenship. The committee in its report estimated 3400,000 (thirty four hundred thousand)

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101 Jha, n. 20, p. 70.
102 Cited in Ibid.
103 Ibid., p. 71.
Nepalese older than 16 years without citizenship.\textsuperscript{104} In 2000, an estimated 4 million were without citizenship.\textsuperscript{105} According to a news report, in 2000, a bill to amend the Citizenship Act of 1963 was unanimously passed in the Lower House but was rejected by the Upper House. The bill was meant to provide citizenship papers to those whose fathers did not have such documents, as required by the Act. However, the opponents of the bill termed some of the clauses of the bill as 'dubious or not fully analysed.'\textsuperscript{106} Interestingly, the Nepal Sadbhavana Party also refused the bill by saying that irrespective of their descents, the people of Tarai should be given citizenship, the report added. Citizenship remains a thorny issue and a major challenge for the Indo-Nepalese.

\textbf{Hill People Migration to the Tarai}

Another problem of the Indo-Nepalese emanates from the large population of the hill migrating to the Tarai region. Today, the Paharis constitute 35 to 40 percent of the Tarai population.\textsuperscript{107} In the 1960s, when King Mahendra took over power, he had doubted support from the Tarai. The inception of the new political system of the Panchayat, the government further encouraged the Hill-to-Tarai migration. In addition, people of 'Nepali origin' from Assam and Burma were helped to settle in the Tarai with the aim of altering social demography to its favour. Ghimire explains this move as an attempt to prevent the influence of

\textsuperscript{104} Lawoti, n. 3.
\textsuperscript{105} The Independent, Kathmandu, 21-27 June 2000.
\textsuperscript{106} Ibid.
opposition political groups against the Tarai people and to eliminate the possibility
of their using the bordering Tarai as a sanctuary for arms raids and other political
activities. Ex-servicemen retired from the British, Indian and Nepalese armed
forces were settled along the border.\textsuperscript{108}

The magnitude of the migration of the Hill people or Paharis into the Tarai
has been creating political and social tensions between the hill people and the Tarai
population.\textsuperscript{109} Until 1961, about 30 percent of Nepal’s population was in the Tarai
and these included 577,000 speakers of Bhojpuri, 1,130,000 speakers of Maithili,
447,000 people were Tharus and other smaller tribal groups. There was little more
than 10 percent of the Tarai population with mother tongue of hill origin, such as
Newari or Nepali, as their mother tongue.\textsuperscript{110} Shrestha’s field survey of 467
households in two Tarai districts – Chitwan and Nawalparasi, reveals that the
number of hill migration to the Tarai has been increasing over the years.\textsuperscript{111} It
is important to note that while the Hill people settle in tarai are much more integrated
in the power structure, the Indo-Nepalese are not so.\textsuperscript{112}

\textbf{Resistance against Discrimination}

Against this background, this section assesses the struggle against the
discrimination of the Indo-Nepalese. It shall be argued that the political parties that

\textsuperscript{108} Ganesh Man Gurung, ‘Migration, Politics and Deforestation in Lowland Tarai’, in Harald O. Skar, 
\textsuperscript{109} Jha, n. 20, p. 46.
\textsuperscript{110} Weiner, n. 88, p. 623.
\textsuperscript{111} Shrestha, n. 31, p. 196.
\textsuperscript{112} Weiner, n. 88, p. 624.
came to fight for the Indo-Nepalese’s cause suffers from two factors: first, the short period of democratic rule in Nepal since 1950 did not allowed them to articulate the issues for redress. Secondly, the political parties suffer from internal division on the basis of castes, religion, ethnic, regional, etc. that weakens its strength.

The genesis of a political party called the Tarai Congress and later as the Sadbhavana Party, both emerged to fight for the cause of the Tarai people, was a result of the ‘quasi-colony status of Tarai’ throughout the history of Nepal. In fact, as early as 1950s, the Tarai Congress advocated for regional autonomy within the Nepalese national structure, however, this demand was dropped later from the party’s agenda of demand.\textsuperscript{113} The most important issue of the early 1950s that the Tarai Congress took up was the language issue – opposing the imposition of Nepali on the Tarai people. It was in 1951 that the Nepal Tarai Congress was founded under the leadership of Vedananda Jha. The Tarai Congress’s objectives were stated as:

a) establishment of an autonomous Tarai state;

b) recognition of Hindi as a state language;

c) adequate employment of Tarai people in the Nepal civil service.\textsuperscript{114}

Hindi protagonists hold meetings to protest the NEPC recommendations in a number of Tarai towns in the mid-1956. The October 1957 directive regarding Nepali as the medium of instruction was protested by the political leaders of Tarai

\textsuperscript{113} Gaige, n. 32, pp. 109-110.

\textsuperscript{114} Ibid.
by organizing public meetings to highlight their protest in the entire Tarai region. The important themes identified by Frederick Gaige from the protest speeches clearly indicate the resentments of the Tarai people towards the Paharis' domination and insensitivity. The directive was seen as a government effort to force the Hill culture upon the Indo-Nepalese. They considered that their rights were undermined because they were being prevented from using the language most familiar to them. They considered it undemocratic as the Tarai population had no say in the policy making process. Lastly, they felt that this discriminatory policies of government would destroy the unity of the nation and create dissension between the plains people and hill people.115

In 1957, the Tarai Congress organised a 'Save Hindi' campaign and formed several 'Save Hindi Committees' in the Tarai towns. Leaders of other political parties such as the Nepali Congress, the Communist Party of Nepal, the United Democratic Party, the Praja Parishad, soon supported the cause. Since the announcement of the directive in July 1957, there was protest marches, strikes, public meetings that continued till November 1957 demanding the withdrawal of the directive. The situation reached serious proportion when incidents of violence were reported in Biratnagar between the Local Save Hindi Committee and the Nepali Pracharini Sabha.

In February the following year the All Nepal Save Hindi Committee delegation met the King to request him to withdraw the January 1958 directive.

115 Gaige, n. 32, p. 111.
Meanwhile, Nepal had its first ever general election in 1959. The Tarai Congress contested in 21 seats. Just days before the voting, King Mahendra proclaimed a new Constitution. The 1959 Constitution affirmed that Nepali should be the national language. This resolved the language issue before the election took place. It undermined the Tarai Congress in their effort to promote Hindi as a second national language and also de-emphasised the importance of regional languages by not even mentioning in the Constitution. To the disappointment of the leaders of the Tarai Congress Party, none of its candidates won in the election. When the first Parliament was convened in July 1959, Hindi as a language for discussion in Parliament was raised. After a short debate, Hindi was accepted to be use in Parliament discussions.

During the Panchayat period, in 1979-80, the King proposed a National referendum to choose between a reformed partyless-Panchayat system and western style of multiparty democracy. The voting to this referendum was allowed to people holding citizenship certificates. The leaders of the Tarai Congress protested and demanded that citizenship be distributed to the Tarai citizens. As a result, the government had distributed citizenship certificate to many of the Tarai citizens who had not been given citizenship till then.

In early 1980s, the government constituted a committee under the chairmanship of Harka Gurung to study the internal and international migration of population in Nepal. Perhaps, the Committee was in response to the Assam anti-

116 Gaige, n. 32, p. 122.
117 Ibid., p. 123.
foreigners drive in the early 1980s which had resulted in the returned of many people of ‘Nepali-origin’ to Nepal. The report held that ‘the Indian community in Nepal was responsible for numerous ills affecting the country.\textsuperscript{118} The report also \textit{inter alia} recommended strong control on immigration from India, ending the open border with India, issuance of work permits to ‘Indians’, strict restrictions on naturalisation and on the economic rights of non-citizens; and a ban on Hindi films, songs and magazines.\textsuperscript{119} The Indo-Nepalese alleged that the recommendations were designed to drive many of them out of Nepal. As many Indo-Nepalese did not possess citizenship certificates, the issuance of work permits would deprive them to work.\textsuperscript{120} The Report soon became controversial issue. The Tarai leaders and intellectuals strongly opposed the implementation. Subsequently, the government refrained from implementing the recommendations of the report in the face of strong opposition.\textsuperscript{121}

In 1983, Gajendra Narayan Singh established an organisation called the Nepal Sadbhavana (Good-will) Council. The organisation’s main aim was stated to combat discrimination against the Madhesis.\textsuperscript{122} Singh was particularly prominent in opposing the Harka Gurung 1983 Report. In the post 1990, the organization turned into a political party called Nepal Sadbhavana Party (NSP). In the first election in 1991, the NSP’s manifesto called for a federal system of government,

\textsuperscript{118} Parmanand, n. 50, p. 1014.
\textsuperscript{119} Ibid.
\textsuperscript{120} Ibid., pp. 1014-15.
\textsuperscript{121} Jha, n. 20, p. 40.
recognition of Hindi as an official language, job reservations for under privileged communities, a liberal policy on citizenship for recent immigrants and a separate Madhesi battalion in the army.\(^{123}\) The issue of representation has been a major problem for the Indo-Nepalese. In 1991 elections, the Sadbhavana Party won six seats in parliament. However, this was reduced to three seats in 1994 general elections. In its 1999 election manifesto, NPS reiterated its emphasis on federal type of government for equal development of all the country; to repeal Article 8 of the Constitution and to put pressure on the government to recruit Tarai people in the army.\(^{124}\) NSP described Article 8 as the main stumbling block to provide citizenship to all the people in Tarai.

Though Sadbhavana Party gives a platform for the Madhesis, the party’s appeal appears to be limited by two main factors: the mainstream party’s have tried to respond to Tarai concerns; and probably because of distrust by other communities of Sadbhavana’s Rajput leadership.\(^{125}\) Claire Burkert has identified three factors for the incapability of NSP becoming a party of the Madhesis. In his study of Members of Parliament (MPs) of Janakpur of Dhanusha district, he argues that the MPs when elected tend to ‘became pawns of the party and were more interested in retaining their position in the party than in taking on Tarai concerns and siding with Sadbhavana.’ Burket also points out that one reason for the unpopularity of Sadbhavana among all the Madhesis has been because the ruling

\(^{123}\) Ibid.


\(^{125}\) Whelpton, n. 107, p. 67.
elite are ‘first Maithil and secondly Madheshi’. Lastly, Sadbhavana is an umbrella organisation of many groups speaking different languages and dialects. For instance, Sadbhavana urges recognition of Hindi as a national language, ‘but this is not an issue for those Maithils whose identity is strongly centered on speaking Maithili, a language they considered as far superior to Hindi and one which has influenced Newari.126 These could be some of the reasons for the NSP to be a party of all Madhesis.

However, inspite of these limitations the NSP has been championing the cause of the Madhesis with some success. But whether the Indo-Nepalese or the Madhesis work under the NSP or not, the problems seems to be much deeper. The strong grievances against discrimination of the Madhesis continue to fuel certain sections. It is in this context that Krishna Bhattachan opines that ‘Madhesi insurgency’ is ‘highly likely’ in Nepal under a party that ‘genuinely represent the problems of the Tarai and stage an insurgency or revolution’. With a more serious note, he writes that ‘if this should happen, there are good reasons to believe that it would succeed’.127

Although many Indo-Nepalese of the Tarai hesitate to say that their ancestors came from India, only on pressing the question, would they tell that their ‘great-grandfather’ had migrated to the Tarai from India (mostly from Bihar). The reluctance of the Indo-Nepalese on the issue itself shows how anything that is

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related to India puts them in a vulnerable position. Ironically, the Shah and some of
the Hindu Paharia, who have been in power since Nepal’s inception, take pride in
their ancestral linkages with princely house in India. Some Indo-Nepalese
questions the Nepali state saying that while Nepalese (read Parbhatiyas) enjoy all
the rights in India, they are not been given the same rights in Nepal.

It shall be worth examining Nepali Congress (NC) programmes for the
minorities and backward sections, in general, and the Indo-Nepalese in particular
and assess their performances in the 1990s as it has been in government for the
longest period. On minority problems, the NC promised to grant citizenship
certificates on the basis of enrolment in the voter’s list of the 1980 referendum, in
order to appeal to the Madhesi communities of the Tarai. Besides, it undertook to
consider enabling the use of minority languages in primary schools and in the
government-run media to some extent. But none of these commitments found a
place in the Congress government’s annual policy paper, though the issues related
to citizenship and minority languages were implemented. The NC had only a few
policy commitments relating to the interests of minorities and backward
communities. An observer has rightly remarked: ‘(a) noticeable shortcoming of the
(NC’s) manifesto was that it failed to highlight the issues related to regional
disparities and ethnic problems’.128 In a booklet circulated in June 2003, the Nepali

128 Krishna Hachhethu, ‘Nepali Politics: People-Parties Interface’ in David N. Gellner, Resistance and
the State: Nepalese Experience (New Delhi: Social Science Research, 2004), pp. 144-45.
Congress reiterated its commitment to resolving the citizenship problem. It said, ‘all necessary legal provisions will be framed to end the problem of citizenship’.  

In a diverse nation like Nepal, democratic system of polity is indeed a preferred one than a more centralized polity controlled by a few elite, like that of the Panchayat system. All the minority communities welcomed the 1990 restoration of democracy in Nepal. Some positive developments have been taking place since the inception of democracy in 1990. The sensitivity shown in response to the growing demands for minority rights by constituting a committee to formulate programmes for a National Cultural Policy is a step forward. The committee recommended *inter-alia* formation of a National Coordination Agency but remains unimplemented. Again, the government formed a National Language Policy Recommendation Commission to address the growing demands of the non-Nepali language groups. In April 1994, the commission made 58-point recommendation inter alia to provide primary education in one’s own mother tongue and listed some eight languages that should be taught in schools. It also suggested for radio broadcasting of news bulletin, which include 12 languages whose speakers exceed one percent of the total population as well as in English and Hindi. But due to problems of preparing textbooks, skilled manpower, and resources, its implementation has been put in stake. The lack of political will on the part of some political parties, who emphasized on homogeneity of the

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130 Gurung, n. 94, p. 527.
Panchayat regime for national integration.\textsuperscript{131} These developments are signs of maturity of the Nepali state that has been showing certain accommodative and liberal character of nation-building. These changes are achievements of the Tarai Congress and the Sadbhavana Party. However, the prospect of the Indo-Nepalese to be one of equitable and non-discriminatory, proper representation in the power structure would call for a more liberal policy on culture, language, religion on the part of the state to achieve a non-confrontational nation-building in the future.

\textbf{Conclusion}

To summarize this chapter, the problems of the Indo-Nepalese have been caused by perceptions and misperceptions. Some of the major problems faced by the Indo-Nepalese are on citizenship, language, representation in the decision-making and migration from the Hill people and from India to the Tarai. The factors responsible for discriminations are both internal and external, varying from historical, political, social, and cultural. Since the 1950s the Indo-Nepalese have been fighting against discriminations which has met some success. However, a number of the Indo-Nepalese problems still remain unresolved.

\textsuperscript{131} Ibid., pp. 527-28 and Poudyal, n. 51, pp. 74-75.