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New Identity Politics and the 2012 Collapse of Nepal's Constituent Assembly:**When the Dominant becomes 'Other'**

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Abstract

This paper explores the politicization of ethnicity in Nepal since 1990. In particular it looks at how ideas of indigeneity have become increasingly powerful, leading to Nepal becoming the first and to date only Asian country to have signed ILO 169. The rise of ethnic politics, and in particular the reactive rise of a new kind of ethnicity on the part of the 'dominant' groups—Bahuns (Brahmans) and Chhetris (Kshatriyas)—is the key to understanding why the first Constituent Assembly in Nepal ran out of time and collapsed at the end of May 2012, despite four years and four extensions, following historic and unprecedentedly inclusive elections in April 2008 and a successful peace process that put an end to a ten-year civil war.

Key words: ethnicity, Janajati, caste groups, indigenous peoples, identity politics, ILO 169, ethnic federalism, constitution-making, Nepal, South Asian politics

Introduction

Hello sir! We need the forest (*jangal*)... It was God's will that we were born as Rautes in the forest. As Rautes, we cannot live happily outside of the forest. Please don't allow an arrangement in which anyone could prevent us from roaming in the forest; please convey

the same message to the Prime Minister. And let him know that it comes from Main Bahadur, the headman. Otherwise, there will be no happiness for the [Raute] people (*janata*)... We are the people (*jati*) who live on forest produce and by hunting. We make and sell wooden utensils for a living. We do not need a house, nor do we need a state (*rajya*). Take all the other places for your states, just leave the jungle for us. Please write [in the constitution] that we are allowed to go to any forest in the country and that no one is allowed to stop us. Do not make us weep by not giving us the forest; please make us happy.¹

On 21 May 2012 Main Bahadur, a Raute headman (*mukhiya*), came out of the forests in the mid-western hills of Nepal and, as representative of the Raute people, spoke on the phone with the Speaker of Nepal's Constituent Assembly (henceforth CA), Subash Nemwang. There were only seven days remaining before the CA – elected four years previously and already extended four times – was supposed to agree and release a new constitution. The CA was rightly lauded as the most representative and inclusive legislative body ever formed in Nepal. Yet many small minorities, such as the Raute, who number only 618 people according to the 2011 census, were unrepresented in the CA. The Raute are officially classified as one of

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¹ *Kantipur*, 2069 Jyestha 8 [21 May 2012](translated from the Nepali). On the Raute, see Fortier, Jana. 2009. *Kings of the Forest: The Cultural Resilience of Himalayan Hunter-Gatherers*. Hawaii: University of Hawaii Press. On the performance of backwardness in the Nepali context, see Lecomte-Tilouine, Marie. 2009. 'Ruling Social Groups—From Species to Nations: Reflections on Changing Conceptualizations of Caste and Ethnicity in Nepal'. In Gellner, D.N., ed. *Ethnic Activism and Civil Society in South Asia*, esp. pp. 318-20; and in neighbouring, ethnically Nepali, parts of India, see Shneiderman, Sara & Turin, Mark. 2006. 'Seeking the Tribe: Ethno-politics in Sikkim and Darjeeling'. *Himal South Asian* 19(2): 54-8. On the evolving official usage of the terms *jāt* and *jāti* in Nepal, see Ishii, H., Gellner, D.N., & Nawa, K. 2007. 'Introduction' in Ishii et al., eds. *Nepalis Inside and Outside Nepal*. Delhi: Manohar.

10 'endangered' groups among the 59 Janajati or 'indigenous nationalities'.² Even the forest-dwelling Raute felt the heat of contention over the future shape of Nepal and feared for their traditional rights and livelihood in the new federal framework, which was expected to divide the country into 14, 11, or 6 possibly ethnically named states or provinces.³

In the event, the CA ran out of time and – the Supreme Court having refused permission for any further extensions – was dissolved on 28 May 2012, without being able to promulgate a new constitution. The sitting government was left in power as a caretaker and the assembly members were dismissed. The government had to try and find a way out, which took nearly 18 months of manoeuvring and – when agreement on a government of national unity could not be reached – the appointment of a 'civilian'

² The full table (of 56 groups, two not being found and one having merged with another), classified into 'endangered', 'highly marginalized', 'marginalized', 'disadvantaged', and 'advantaged', is available on the NEFIN website (www.nefin.org.np/list/Classification/5/0/6). See also Gellner, D.N. 2007. 'Caste, Ethnicity and Inequality in Nepal'. *Economic and Political Weekly* 42(20): 1823-8.

³ As will become clear, almost everything about the institutionalization of federalism in Nepal is contested. Those who favour strong units call them 'states' (*rājya*); those who want only limited powers to be devolved from the centre tend to call them 'provinces' (*pradesh*). On federalism in Nepal there is a vast literature produced in Nepal itself. For comprehensive analysis of the developments from different ethnic and political perspectives before the dissolution of the CA, see *Sanghiyata Mathi Vimarsh* [Special issue on Federalism]: *Vichar Vishesh Quarterly* (Year 2 Issue 2-5, 2011). For a helpful introduction to the issues in English, see Shneiderman, Sara & Tillin, Louise. 2015. 'Restructuring States, Restructuring Ethnicity: Looking Across Disciplinary Boundaries at Federal Futures in India and Nepal'. *Modern Asian Studies* 49: 1-39. Before the CA itself came up with its different proposals of 2010 and 2012, individuals and organizations had put forward their own plans for a federal Nepal, many of which are helpfully summarized in Sharma, Pitamber & Khanal, Narendra with Tharu, Subhas Chaudhary. 2009. *Towards a Federal Nepal: An Assessment of Proposed Models*. Kathmandu: Social Science Baha. See also Karki, Budhi & Edrisinha, Rohan, eds. 2014. *The Federalism Debate in Nepal*. Kathmandu: UNDP & SPCBN.

government to oversee elections.⁴ Those elections eventually took place in November 2013 leading to a very different configuration in the second CA, with the NC (Nepali Congress) and UML (full form: CPN-UML or Communist Party of Nepal-Unified Marxist-Leninist) as the two largest parties. The Maoists – abbreviated as UCPN(M), short for Unified Communist Party of Nepal (Maoist) –, who had won triumphantly in 2008, were comprehensively defeated in 2013 and relegated to the role of official opposition.

The main reason the first CA collapsed was its failure to reach agreement on the number, boundaries, or names of the new federal states. In 2010 the CA's State Restructuring Committee (full title: Committee for State Restructuring and Distribution of State Power or CSRDSP) had proposed 14 federal states, seven with ethnic names, five with geographic names, and two with combined ethnic-linguistic-geographic names. This proved controversial, partly because some of the smaller states were considered impracticable. So in 2012 a smaller High-Level State Restructuring Commission (HLSRC) was tasked with coming up with an acceptable compromise. The majority proposal was for 10 territorial states and one non-territorial state (for Dalits); of the 10, six had ethnic names, two had geographic names, and two had mixed names. However, a minority of the Commission dissented and proposed instead six non-ethnic geographic states. The CA was unable to vote on either proposal and ended ignominiously without being able to vote on any form of constitution.

In order to follow the narrative that follows, it is necessary to introduce a distinction between 'ethnic' federalism (*jātiya-sanghiyatā*) and 'identity-based' federalism (*pahicān-sahitko sanghiyatā* or *pahicānjanit sanghiyatā*) first proposed by Krishna Hachhethu, professor of political science in Tribhuvan

⁴ A preliminary narrative of these events can be found in Jha, Prashant. 2014. *Battles of the New Republic: A Contemporary History of Nepal*. London: Hurst; Delhi: Aleph, pp. 316-34; and in Nepali, see Sharma, Sudhir. 2013. *Prayogshala: Nepali Sankramanma Dilli, Darbar, ra Maobadi*. [The Laboratory: The Role of Delhi, the Palace, and the Maoists in Nepal's Transition]. Kathmandu: Fine Print. Cf. Snellinger, Amanda. 2015. 'The Production of Possibility through an Impossible Ideal: Consensus as a Political Ideal in Nepal's Constituent Assembly'. *Constellations* 22(2): 233-45.

University, Kathmandu, in a series of talks and newspaper articles in 2011.⁵ Ethnicity-based federalism proposes differential rights depending on one's ethnic identity, as found in Bosnia, Ethiopia, or Belgium; identity-based federalism, recommended for Nepal both by the CSRDSP in 2010 and by the HLSRC in 2012, advocates only that federal states or provinces should be named after the group with a historic link to the territory of the province or state. In the 2013 elections for the second CA, the Maoists, along with explicitly Janajati- and Madheshi-based parties, argued for 'identity-based federalism', having retreated from the terms 'ethnic federalism' and 'ethnically based states' which were prominent in their 2008 election manifestos. The important sociological fact, however, was and remains that this distinction between types of federalism was obscure to the vast majority of the population; even most of the political class were either ignorant of it or considered it irrelevant.⁶

In the second CA, elected in November 2013 and sitting from January 2014, the balance of power certainly shifted away from both 'ethnic' and 'identity-based' federalism. Both dominant political parties, the NC and the UML, were and are hostile to ethnically named provinces. At the very last minute, in the last two days before the collapse of the first CA, compromises were put forward – that all states should have combined geographic-ethnic names, or even that the names of the states should be left to the new

⁵ E.g. Hachhethu, Krishna. 2011. 'Sanghiyata: Jatiya ki Loktantrik?' [Federalism: Ethnic or Democratic?], *Kantipur*, 15 February 2011. For a review of the history, see Hachhethu, K. 2014. 'Balancing Identity and Viability: Restructuring Nepal into a Viable Federal State' in Karki & Edrisinha (fn. 3), pp. 35-74. See also Hachhethu, K. 2014. 'A Middle Way' (op-ed), *Kathmandu Post*, 4 November 2014 (www.ekantipur.com/the-kathmandu-post/2014/11/03/related_articles/a-middle-way/269237.html), consulted 14/8/15) on "identity-based non-ethnic federalism" and Snellinger 'The Production of Possibility'. The distinction is clearly outlined in the bilingual English/Nepali *Federal Terminology through Citizen Dialogues* published by International IDEA in 2014.

⁶ The confusions around the term 'ethnic federalism' are discussed by Deepak, Thapa in an op-ed, 'Generalised Precision', *Kathmandu Post*, 1 March 2012 (www.ekantipur.com/the-kathmandu-post/2012/02/29/oped/generalised-precision/232120.html), consulted 13/8/15).

state assemblies themselves to decide – but it was too late for agreement to be reached.⁷ The backlash against ideas of ‘ethnic’ federalism was a large part of the reason, along with a generalized vote against incumbents, why the Maoists did so badly in 2013. The Maoists acknowledged that they had failed to explain their position on federalism and that they lacked a clear policy on the rights and identity of the poor and labouring class of Khas-Arya people, which was the “main reason” for their defeat.⁸

Behind these political events lie a series of movements and events and the rise of a new form of assertive ethnicity, which we attempt to describe and analyse in this paper. It is hardly surprising that the dominant groups of the country, since they already had plenty of representation in the existing political parties and institutions, should have been slow to organize politically and slow to try to schematize, operationalize, and concretize particular cultural traditions as a tool of electoral politics. When the dominant culture provides the framework of the national culture,⁹ it is to be expected that it would remain largely taken for granted by its bearers, not needing to be asserted or preserved. Nor is it surprising that the overwhelming bulk of scholarly attention has been on minorities and on ethnic identity formation among dominated groups, just as the construction of ‘whiteness’ only came to be studied long after marked and minority forms of identity had produced many shelves-worth of analysis.¹⁰

⁷ Jha, *Battles*, p. 328.

⁸ In a press conference on 20th December 2013 (www.nepalnews.com/index.php/politics-archive/28569-ucpn-m-accepts-defeat-in-poll-due-mainly-to-ethnic-agenda). See also Gellner, D.N. 2014. ‘The 2013 Elections in Nepal’ *Asian Affairs*, 45(2): 243-61. <http://bit.ly/1pe2hal>. ‘Khas-Arya’, the new term for Bahuns and Chhetris, is discussed further below.

⁹ For different perspectives on this, see Pigg, Stacey L. 1992. ‘Inventing Social Categories through Place: Social Representations and Development in Nepal’. *Comparative Studies in Society and History*, 34(3): 491-513, and Lawoti, Mahendra. 2005. *Towards a Democratic Nepal: Inclusive Political Institutions for a Multicultural Society*. Delhi: Sage. On the rejection of the dominant identity, see Hangen, Susan I. 2010. *The Rise of Ethnic Politics in Nepal: Democracy in the Margins*. London: Routledge, esp. Ch. 6 ‘Becoming Not-Hindu’.

¹⁰ For an introduction to Nepal with chapters on most major groups, see Gellner, David N., Pfaff-Czarnecka, Joanna, & Whelpton, John, eds. 1997. *Nationalism and Ethnicity in a Hindu Kingdom*. Amsterdam: Harwood (reissued 2008).

The story we tell here is about how, at a politically vital conjuncture when the future shape of the state was at stake, the identity of the dominant groups could no longer be taken for granted or assumed to be a purely private matter. We describe how the Bahuns (Brahmans) and Chhetris (Kshatriyas) of Nepal were shaken out of their complacency by – as they saw it – being classified as ‘others’ and ‘denied identity’. Suddenly they became politically assertive *as Bahuns* and *as Chhetris* and began to make claims for cultural and political recognition for the first time.¹¹

The research on which this paper is based is part of a larger project on changing Bahun and Dalit identities in Western Nepal. Gellner has studied and written about ethnicity in Nepal since the 1980s, when he first came into contact with members of the Newar movement. Adhikari, a UK-based researcher and Co-Investigator of the above-mentioned project, is himself a Bahun, originally from the Pokhara region, which (as will be described below) has a special place in this story. He is not aligned with any political party and is not a member or supporter of any of the organizations described and is not related to any of the people quoted in this paper, despite sharing a surname with one of them. This article, in addition to the written sources cited, is based on in-depth interviews and observation of several events and programmes between 2009 and 2012 in rural Kaski and urban areas, mainly Pokhara and Kathmandu. These include 18 detailed interviews with key members of the organizations described carried out by Adhikari, 3 interviews carried out jointly by both authors (in Pokhara), and 3 interviews carried out by

with a new introduction as *Nationalism and Ethnicity in Nepal*. Kathmandu: Vajra). For an attempt to reverse the scholarly emphasis on dominated minority groups, see Kaufman, Eric 2004. ‘Dominant Ethnicity: From Background to Foreground’ in E. Kaufman, ed. *Rethinking Ethnicity: Majority Groups and Dominant Minorities*. London: Routledge.

¹¹ Technically, the much smaller Thakuri (the ‘royal’ sub-caste) and Sanyasi (equivalent in status to Chhetri) groups should be included here; for brevity we refer to ‘Bahuns and Chhetris’ understood to include smaller aligned groups, just as Nepalis themselves frequently refer to them all as ‘Chhetri-Bahun’ or ‘Bahun-Chhetri’. Part of the point of our account here is that, though they do indeed come together as a single bloc under certain circumstances, there are significant differences, cultural, political, and historical, between them as well.

Gellner (in Kathmandu) (not to mention many interviews over the years with Janajati activists in Kathmandu). Since these matters are still highly controversial in the Nepali context, it is worth stressing that *describing* a movement and its aims, and therefore reproducing the terminology it uses, is not the same as *approving* of it.

Building ethnicity in the 1990s and 2000s

Nepal's nineteenth-century rulers sought to frame their diverse subjects within a broadly Hindu framework. This was formalized under the first of the hereditary Rana Prime Ministers, Jang Bahadur, with his Muluki Ain or country law code of 1854.¹² This complex legal hierarchy was based on Hindu law codes but supposedly inspired by the Code Napoléon following Jang Bahadur's visit to London and Paris in 1850.¹³ The various castes and ethnic groups subject to the King of Nepal were slotted into one of five macro categories in a unitary hierarchy: (1) wearers of the sacred thread (*tāgādhārī*); (2) non-enslavable alcohol-drinkers (*na māsinyā matwālī*); (3) enslavable alcohol-drinkers (*māsinyā matwālī*); (4) water-unacceptable groups (*pāni na calne*); (5) untouchables (*pāni na calne choi chito hānu parne*).¹⁴ Within each category there were many castes with a prescribed hierarchy between them (no distinction was

¹² The standard study of this is Höfer, András. 1979. *The Caste Hierarchy and the State in Nepal: A Study of the Muluki Ain of 1854*. Innsbruck: Universitätsverlag Wagner. (Reissue 2004, Kathmandu: Himal Books.) See also Whelpton, John. 1991. *Kings, Soldiers and Priests: Nepalese Politics and the Rise of Jang Bahadur Rana, 1830-57*. New Delhi: Manohar, and Sever, Adrian. 1993. *Nepal under the Ranas*. Sittingbourne: Asia Pub. House.

¹³ On Jang Bahadur's trip to Britain and France, see Whelpton, John. 1983. *Jang Bahadur in Europe: The First Nepalese Mission to the West*. Kathmandu: Sahayogi; in Nepali see Dixit, Kamal M. 2001(1957). *Janga Bahadurko Belayat Yatra*. Kathmandu: Sajha Prakashan, and Adhikari, Krishna P. 2013. *Belayatma Pahilo Nepali Motilal Singhko Rahasyamaya Jivan ra Unko Aitihāsik Alekh (with Translation)*. Reading: Centre for Nepal Studies UK.

¹⁴ It was impossible to amalgamate the caste hierarchy of the Tarai (more or less identical with Indian distinctions over the border) with the hierarchy constructed for the hills of Nepal, but the same underlying principles of purity and *varna* were deployed there also.

made between castes and ethnic groups: all were equally *jāt*). It was possible for groups to move up from category (3) to (2), following exemplary service and/or petitions to the crown. Interactions – social, commensal, sexual, marital – between categories and castes were closely regulated, with particularly severe punishments for low-caste men who had relations with higher-caste women.

Following the fall of the Ranas in 1950-51 this legal framework for inter-group relations lapsed and was replaced, finally, in 1963 with a new code that made no reference to caste and assumed a body of equal citizens. However, unlike in India, no measures of positive discrimination were undertaken on behalf of those at the bottom of the hierarchy, whether Dalits (as Untouchables are now called) or Janajatis (who used to be called '(hill) tribes' and correspond to what are officially classed as Scheduled Tribes in India). At the same time, the Nepalese state started referring to itself as officially Hindu and upheld the right of groups to maintain their traditional customs; if high castes had it as a traditional custom to exclude certain categories of people from temples or water taps, there was little the latter could do. Unlike in India, Dalits had no recourse to law and since they had virtually no representation in the police or the law courts, and not much more in politics or the bureaucracy, they were unable to win any systematic improvements to their condition during the thirty years, 1960-1990, of guided democracy known as the Panchayat system.¹⁵ Janajatis, though not as severely disadvantaged as Dalits, likewise faced systematic discrimination.¹⁶ During this period political parties were banned and the emphasis was

¹⁵ See Biswokarma, J.B. 2012. 'Vicious Cycle of Non-Representation: Electoral System and Dalit Representation in Nepal'. Kathmandu: Samata Foundation (Policy Paper 2).

¹⁶ For two examples, see Holmberg, David, March, Kathryn, Tamang, Suryaman, & Tamang elders. 1999. 'Local Production/Local Knowledge: Forced Labor from Below'. *Studies in Nepali History and Society*, 4(1): 5-64, and Shneiderman, Sara. 2003. 'Violent Histories and Political Consciousness: Reflections on Nepal's Maoist Movement from Piskar Village'. *Himalaya* 13: 39-48.

on nation-building. Ethnic, cultural, and linguistic difference was discouraged in the public sphere, remaining largely confined to cultural activism, private performance, and folk songs played on the radio.¹⁷

All this changed after the revolution or 'People's Movement', as it is known in Nepal, of 1990, which brought in a system of constitutional monarchy and a new constitution.¹⁸ Political parties were permitted to organize (they were only banned from contesting elections if formed on a 'communal' basis). The public sphere was no longer tightly controlled; it opened up to all kinds of organization on all sorts of bases. People from ethnic backgrounds affirmed that they felt as if a great weight had been lifted from their backs. What began in the 1990s, and gathered pace thereafter, was a dynamic process of ethnicity formation and intensification driven by the interaction of several factors: (a) activism (inspired by international examples, by Nepal's history of structural inequality, and by experience of underground leftist activism during the Panchayat regime), which reached out to the grassroots and mobilized new community events in a rapidly urbanizing society; (b) a changing and increasingly favourable international human rights environment backed by the UN; (c) recognition and support on the part of the state; and (d) political competition and a ten-year civil war.

¹⁷ Krauskopf describes how a cultural activist she knew in the 1980s turned out to be a leftist activist after 1990: Krauskopf, Gisèle. 2003. 'An "Indigenous Minority" in a Border Area: Tharu Ethnic Associations, NGOs, and the Nepalese State' in Gellner, D.N., ed. *Resistance and the State: Nepalese Experiences*. Delhi: Social Science Press. Cf. Lecomte-Tilouine, 'Ruling Social Groups', and Gellner, D.N. & Karki, M.B. 2007. 'The Sociology of Activism in Nepal: Some Preliminary Considerations' in Ishii, H. et al., eds. *Political and Social Transformations in North India and Nepal*, pp. 361-97. Delhi: Manohar. On the Panchayat ideology, see Joshi, Bhuvan L. & Rose, Leo. 1966. *Democratic Innovations in Nepal*. Berkeley: University of California Press, and Whelpton, John. 2005. *A History of Nepal*. Cambridge University Press.

¹⁸ See Whelpton, *History*, and Hoftun, Martin, Raepel, William, & Whelpton, John. 1999. *People, Politics and Ideology: Democracy and Social Change in Nepal*. Kathmandu: Mandala Book Point. On the events of 1990, see Ogura, Kiyoko. 2001. *Kathmandu Spring: The People's Movement of 1990*. Lalitpur: Himal Books.

Initially, in 1991, just seven representative organizations of what previously would have been called tribes joined together to form the Nepal Federation of Nationalities (Nepal Janajati Mahasangh in Nepali). In 1994 a specially formed committee of intellectuals and relevant organizations, responding to the UN's declaration of a Year of Indigenous People (later extended to a Decade), decided that in the Nepalese context 'nationality' (Janajati) and 'indigenous' (*ādivāsi*), though not synonyms, referred to the same groups in the Nepali context.¹⁹ It was only a decade later, in August 2003, that the name of the organization was adjusted to include the key term: it became the Nepal Federation of Indigenous Nationalities or NEFIN.²⁰

The term Janajati was borrowed from Hindi (where it was a neologism invented to translate the English 'tribe').²¹ It was almost wholly unknown in Nepal before 1990 and would have been recognized only by a handful of intellectuals. Even today many people are vague or confused about its exact referent, often taking it to be a synonym for 'low caste' (*sāno* -- literally 'small' -- *jāt*). This is in marked contrast to the term, Dalit, which also came into usage in Nepal only after 1990. Everyone knows and uses the word 'Dalit' as the politically correct term to refer to categories (4) and (5) of the Ranas' classification, i.e., in

¹⁹ The document produced by this committee does not appear to have been placed on the web; a substantial quotation arguing for the equation of *Janajati* and *Adivasi* is given in Gellner, D.N. 1997. 'Introduction: Ethnicity and Nationalism in the World's Only Hindu State' in Gellner et al. (n.8), pp. 20-1. The equation is not necessarily accepted by all Janajatis themselves, and disaggregating the two terms was, as described below, one of the key aims of the Khas-Arya movement.

²⁰ On the rise of ethnic politics in Nepal, see Gellner et al. (n. 10); Onta, Pratyoush. 2006. 'The Growth of the *Adivasi* *Janajati* Movement in Nepal after 1990: The Non-Political Institutional Agents' *Studies in Nepali History and Society* 11(2): 303-54; Hangen, *The Rise of Ethnic Politics in Nepal*; Lawoti, Mahendra & Hangen, Susan, eds. 2012. *Nationalism and Ethnic Conflict in Nepal: Identities and Mobilization after 1990*. Routledge; Gellner & Karki 'The Sociology of Activism'.

²¹ 'Janajati' may also have entered Nepali from Darjeeling and therefore through Bengali influence. It seems that in India – in contrast to Nepal – the word 'janajati', though used in some official contexts, never caught on in political discourse ('adivasi' or 'ST' are used instead).

traditional Hindu terms, to the 'impure' and 'untouchable'. With 'Dalit' – in contrast to 'Janajati' – there is unanimous usage and no vagueness.²² In the past those now classified as Janajati were called, and even today still sometimes refer to themselves as, *matwāli*, 'alcohol-drinkers', following the Rana law code; or alternatively (a more modern usage) as 'Mongolian'. They are sometimes referred to as 'ethnic groups', a colloquial usage that we also follow here, since – though clearly in a more sociological sense all hereditary groups are equally ethnic – in the popular perception, some groups (just as in the West) are more ethnic than others.

<insert Table 1 approximately here>

A key change that followed 1990 was that the decennial national censuses began to collect and publish information on the 'caste or ethnic group' of all citizens (in contrast to Indian censuses, which collect this information only for Scheduled Castes as a collective category, without counting individual castes, and for Scheduled Tribes). Before 1990 it was necessary to guess at the size of particular Nepali groups; the nearest proxy was mother tongue, but this was deceptive as so many members of Janajati groups no longer spoke their ancestral language and had adopted Nepali. After 1991 and in each subsequent decennial census the percentage make-up of the country was public knowledge, as shown in Table 1.

²² Despite its official recognition, the term 'Dalit' has remained controversial among Dalit intellectuals and in some political circles. See, for example, Cameron, Mary. 2007. 'Considering Dalits and Political Identity in Imagining a New Nepal'. *Himalaya* 27(1-2): 13-26. Another 'macro' ethnic category that came into prominence after 1990 was 'Madheshi', as a name for Nepalis of Indian linguistic, cultural, and ethnic origin. This category, though not in itself new, is vaguer even than 'Janajati' because some groups belong only marginally to the category: some Tharus believe that they belong, others vehemently oppose belonging; Tarai-based Muslims are sometimes included, at others excluded.

The existence of precise figures enabled calculations to be made about the respective shares of positions in government, in academia, the law, the army, and so on, and to demonstrate systematic imbalances – the result, it was claimed, of structural inequality and discrimination that needed strong government action to be overcome. The most pressing and obvious imbalance was the fact revealed by figures published in 2001: Bahuns and Chhetris, comprising 31.6% of the population had 77% of the top positions in the judiciary, tertiary education, and the bureaucracy, with well over 50% in most other fields, and were under-represented only in commerce and industry.²³ If one were to look at Bahuns alone (12.2% of the population in 2011), the differences would be more striking still. By contrast, Janajatis (minus Newars, who like Bahuns, had representation several times higher than their caste ratio), who were 22% of the population by Neupane's calculation, had only 1.7% of leading jobs in the judiciary, 1.2% of leading civil service posts, and so on. These imbalances fuelled the Janajati movement and meant that that one of its main aims was to have reservations (affirmative action) and other government resources to assist in overcoming 'backwardness'.

The dominance of Bahuns in the political parties, the universities, the judiciary, and the media gave the Janajati movement the character of a strongly anti-Brahman movement, as in Tamil Nadu over a century earlier and in other parts of south India from the 1930s. The term *bāhunbād* or 'Brahmanism'

²³ The figures for caste and profession were first collected and tabulated by Neupane, Govinda. 2000. *Nepalko Jatiya Prasna* (Nepal's Nationality Question). Kathmandu: Centre for Development Studies. His figures can also be accessed in Onta 'The Growth of the Adivasi Janajati Movement', in Lawoti, *Towards a Democratic Nepal*, and in Hachhethu, Krishna & Gellner, D.N. 2010. 'Nepal: Trajectories of Democracy and Restructuring of the State' in P. Brass, ed. *Routledge Handbook of South Asian Politics*, pp. 131-46. Routledge, see p. 138. The first person to draw attention in print to disproportionate representation of Bahuns and Chhetris was Gopal Gurung in *Nepalka Adekha Saccai* (translated as *Hidden Facts in Nepalese Politics*), self-published in 1985, for which he was sent to jail for 3 years: see Hangen, *The Rise of Ethnic Politics*, p. 63f. Other figures demonstrating Bahun over-representation are given by Maharjan, Pancha. 1999. 'Problems of Democracy in Nepal', *European Bulletin of Himalayan Research* 17: 41-68, esp. 63-4.

entered public discourse in Nepal with the publication of Dor Bahadur Bista's book *Fatalism and Development* in 1991.²⁴ Bista, a Chhetri, was regarded as the most senior anthropologist of the country until his still unexplained disappearance in 1995. Bista's thesis was that all backwardness in Nepal could be explained by certain fatalistic attitudes inculcated by Bahuns. The implication was that if Janajatis and, by implication, Chhetris and Dalits, and perhaps also individual Bahuns, could rid themselves of Bahun ideological hegemony, entrepreneurship and egalitarianism would flourish in Nepal. This message, dressed up in some simple ethnographic data about how Nepali interpersonal networks function, seemed to provide an instant explanation for all the frustrations faced by development professionals in Nepal. Thus, the book enjoyed an enormous success among the expatriate community. At the same time, it also provided sustenance to the Janajati movement and fed into a much wider and deeper critique launched by Janajati intellectuals, which involved a complete reassessment of Nepali history, often using the concept of internal colonialism.²⁵

The wider Janajati movement fed directly into campaigns by particular ethnic organizations (e.g. by the Nepal Magar Sangh for Magars to return their language as 'Magar' and their religion as 'Buddhism'). While many Janajati organizations had their roots in the 1980s or before, many others came into existence only after 1990 and often with the encouragement of NEFIN. The 1991 census counted 60 groups; in the 2001 census this had grown to 103 groups, and by 2011 to 125 groups. In 1996 the Ministry of Local Development commissioned a report. It was prepared by a committee of six, chaired by

²⁴ Bista, Dor B. 1991. *Fatalism and Development: Nepal's Struggle for Modernization*. Hyderabad: Orient Longman.

²⁵ On these Janajati writings, see Des Chene, Mary. 1996. 'Ethnography in the Janajati-yug: Lessons from Reading *Rodhi* and other Tamu Writings'. *Studies in Nepali History and Society* 1(1): 97-161; Schlemmer, Grégoire. 2003-04. 'Inventing a Past for Inheriting a Future: New Visions of History among the Kirant Intellectuals of Nepal', *European Bulletin of Himalayan Studies* 25/26: 119-45; Tamang, Mukta. 2009. 'Tamang Activism, History, and Territorial Consciousness'. In Gellner, D.N., ed. *Ethnic Activism and Civil Society in South Asia*, 269-90. Delhi: Sage; Krauskopff, Gisèle. 2009. 'Intellectuals and Ethnic Activism: Writings on the Tharu Past', *ibid.*, 241-68; Lecomte-Tilouine 'Ruling Social Groups'.

development sociologist Professor Sant Bahadur Gurung, and including three politicians, the Undersecretary to the Ministry, and the well-known anthropologist and Janajati advocate Krishna Bhattachan. The report recommended a national foundation, but in the first place the Ministry established a National Committee for the Development of Nationalities. It drew up a list of 61 Janajati groups, but with amalgamations these quickly became 59. In February 2002, the government granted them official recognition as Janajatis, though 16 had not been included in the previous year's census.²⁶ In 2009 Professor Om Gurung, a senior anthropologist at Tribhuvan University, led a government-appointed committee to re-examine the official list of Janajatis; following field investigations, the committee submitted a report recommending that the list be expanded to 81 groups. However, perhaps because of its timing, the report proved to be controversial. It was shelved, and never published.

In February 2002 the National Foundation for the Development of Indigenous Nationalities (NFDIN) Act was passed. It established the official government body for Janajati issues that NEFIN activists had long been seeking. Sant Bahadur Gurung became its first head. NFDIN was tasked with supporting indigenous languages and cultures, preserving indigenous knowledge, and devising development programmes to "enhance the economic and social status of the poor and marginalized groups among the indigenous nationalities."²⁷ The official definition of Janajati stressed their possession of a distinct language and culture, non-participation in the Hindu caste system, exclusion from the state and power, self-identification as Janajati, and inclusion on the government list.²⁸ Subsequent definitions included also the criterion of prior settlement.²⁹ While NFDIN is a government organization and therefore largely staffed by bureaucrats, and NEFIN is a campaigning activist organization recognized as the main national

²⁶ For details, see Hangen, *The Rise of Ethnic Politics*, p. 50f. See also fn. 2 above.

²⁷ <http://nfdin.gov.np/secured/organization-act/> (consulted 20/7/14). National Commissions for Women and for Dalits were established a year earlier in 2001.

²⁸ The penultimate and antepenultimate criteria mean that the inclusion of the Newars, the traditional inhabitants of the Kathmandu Valley, is controversial (for some Newars, for other Janajatis, and among non-Janajatis).

²⁹ See, e.g., <http://www.nefin.org.np/list/Definition-of-Indigenous/5/0/4> (consulted 20/7/14).

representative body for Janajatis, there is a considerable overlap in aims and expertise, with concomitant exchange of personnel and ideas between the two organizations.³⁰

In 2003, the weak non-party government of Surya Bahadur Thapa, seeking legitimacy as well as feeling under pressure to counter the insurgent Maoists' declaration of ethnically based autonomous states (described below), adopted the general principle that there should be reservations, as in India, for posts in the civil service. As amended in 2007, the Civil Service Act (1993) specifies that 45% of the places are to be reserved for disadvantaged groups: 33% for women, 27% for indigenous nationalities, 22% for Madheshis, 9% for Dalits, 5% for disabled people, and 4% for the backward regions.³¹ Similar policies are in place elsewhere in the public sector as well as for university places, mainly for highly competitive technical subjects. In addition, there are provisions for financial support for members of 'endangered' Janajati groups, currently Rs 1,000 a month. Dalits and people from Karnali Zone receive Rs 500 per month Old-Age Allowance when they reach 60; all Nepalis receive it after turning 70.³²

Both NFDIN and NEFIN were successful in winning large contracts from the British aid ministry, DFID, in 2004, worth 45 million and 190 million rupees respectively (Scandinavian countries, such as Norway and Denmark, put considerable sums into social inclusion projects as well, as did the EU). These were part of DFID's 'Enabling State' programme and aimed to assist in promoting good governance and

³⁰ The reliance of the Nepali state on NGO formulations, including the five-fold classification of types of Janajati referred to in fn. 2, is a point well made by Middleton, Townsend & Shneiderman, Sara. 2008. 'Reservations, Federalism and the Politics of Recognition in Nepal' *Economic and Political Weekly* (May 10): 39-45. They also describe how the division into types of Janajati has encouraged conflict within the Janajati movement.

³¹ MoLJA (2007). *Civil Service Act, 2049 (1993) (Second Amendment 2007)*. Kathmandu: Ministry of Law, Justice and Parliamentary Affairs.

³² There are also allowances for single women over 60, widows, and children under five from Dalit families or from the Karnali zone. MoFALD (2013). *Samajik Suraksha Sanchalan Karyavidhi* [Social Security Programme Operational Guidelines]. Kathmandu: Ministry of Federal Affairs and Local Development. The monthly pension is due to rise to Rs 1,000 per month from 2015.

social inclusion.³³ The fact that the Janajati-affiliated government office NFDIN, the confederal body NEFIN, and NEFIN's constituent ethnic organizations were able to attract such large-scale foreign funding proved controversial both within Janajati circles (Mongol National Organization graffiti attacking NEFIN could be seen for some time in 2009 in Pulchok, Patan) and beyond, once the Bahun-Chhetri movement got going.³⁴ Bahun-Chhetri groups accused donors of funding projects that, in the name of empowerment, in fact threatened communal harmony and Nepal's national integrity. In June 2012 they formed a task force, led by Dr Nanda Bahadur Singh on behalf of the 'Joint Struggle Committee for National Integrity and Ethnic Goodwill' (described further below), that met and submitted protest memorandums (*gyāpan patra*) to major donor offices and diplomatic missions in Kathmandu.

As background to these various mobilizations, it is important to note that the rise of the Janajati movement coincided with (a) the spread of the internet, (b) mass labour migration from Nepal to India, the Gulf, and Southeast Asia, and (c) the development of sizeable diaspora Nepali populations in Europe, North America, and Australia. All three processes are linked. Activists inside Nepal were and are able to draw considerable and increasing sustenance from international networks.³⁵ The internet has proved a valuable tool for mobilizing support and spreading activist messages. The anonymity permitted by the internet also means that there is a considerable amount of material, some vitriolic, on-line that has yet to be studied systematically as a source for ethnic interaction.

³³ DFID funding for NEFIN ended abruptly in May 2011, following NEFIN's support for a Nepal-wide *band* (strike) the previous month.

³⁴ During the 10 years 2004-14 NEFIN central office received 350 million rupees in foreign aid. For details and analysis of foreign funding for Nepal's ethnic organizations, see Gurung, Hasta & Bishwakarma, Baburam. 2014. 'Pahichan Maitri Lagani' [Identity-friendly Investment]. *Kantipur Daily*. 7 July 2014. For a discussion of the relationship between Janajati activists and DFID funding, see Shneiderman, Sara 2013. 'Developing a Culture of Marginality: Nepal's Current Classificatory Moment'. *Focaal* 65: 42-55.

³⁵ See, for example, Minami, Mio. 2007. 'From *tika* to *kata*? Ethnic Movements among the Magars in an Age of Globalization'. In *Nepalis Inside and Outside Nepal* (fn. 1), pp. 443-66.

The role of the Maoist insurgency/civil war

The political background to the rise of ethnic politics was the Maoist 'People's War', otherwise known as the Maoist insurgency. Without this rupture, it is highly unlikely that the ethnic issue would have risen so fast and so high on the political agenda. In the ten years between 1996 when the war started and 2006 when a final ceasefire was declared, there were 13 different governments in Kathmandu. Even when the Congress Party won a majority, in the 1999 election, internal factional fights ensured that no government was secure or lasted longer than 14 months. After King Gyanendra dismissed PM Deuba in October 2002, there was a series of non-party governments, as the King endeavoured to turn the clock back to the officially partyless days of his father Mahendra. He succeeded only in driving the parties and the Maoists into each other's arms, ultimately ensuring the monarchy's demise. From 2001 when the Maoists' People's Liberation Army attacked the Royal Nepal Army directly, it became increasingly clear that the Maoists rather than the government had a free run in most of the countryside, at least in the hills. In many districts the army controlled only the district headquarters.³⁶

The military success of the Maoists enabled them to divide the whole country into nine autonomous regions and, during the course of January and February 2004, they declared 'people's governments' in elaborate ceremonies for which many thousands of people were forcibly collected

³⁶ On Maoism in Nepal, there is a growing literature: Thapa, Deepak. 2004. *A Kingdom under Siege: Nepal's Maoist Insurgency, 1996-2004*. London: Zed; Hutt, Michael, ed. 2004. *Himalayan 'People's War': Nepal's Maoist Rebellion*. London: Hurst; Ogura, Kiyoko. 2008. *Seeking State Power: The Communist Party of Nepal (Maoist)*. Germany: Berghof; Lecomte-Tilouine, Marie, ed. 2013. *Revolution in Nepal: An Anthropological and Historical Approach to the People's War*. Delhi: OUP; Pettigrew, Judy 2013. *Maoists at the Hearth*. Pennsylvania University Press; Adhikari, Aditya. 2014. *The Bullet and the Ballot Box: The Story of Nepal's Maoist Revolution*. London: Verso. See also Gellner, *Resistance and the State* (fn. 15). For an on-line bibliography, see Simkhada, Shambhu Ram & Oliva, Fabio. 2005. *The Maoist Insurgency in Nepal: A Comprehensive Annotated Bibliography*. Geneva/Kathmandu: PSIO. Among many Nepali publications, see Sharma, *Prayogshala* (fn. 4).

together. The inaugurations were filmed and put on the internet. Of the nine regions, in only one, that based in the centre of the country, were they unable to hold such a ceremony. Of the nine, six were named after the ethnic group of which it was the eponymous homeland: Magarat (Magars), Tharuwan (Tharus), Tamuwan (Gurungs), Tamsaling (Tamangs), Newa (Newars), and Kirant (Rais, Limbus, and others).³⁷ Less than two years later, on 25 November 2005, the Maoists signed a twelve-point agreement with the Seven-Party Alliance. The Maoists agreed to respect parliamentary elections and to merge their People's Liberation Army with the national army. They then joined hands with the parties in a 'People's Movement 2', as it is called in Nepal, in April 2006. The King was forced to cede power, the Maoists came 'above ground', the 1999 parliament was reinstated, an interim constitution was agreed and promulgated, and a new parliament of nominated members was instituted to prepare for new elections. In this revolutionary situation, a great deal of radical change was achieved through Maoist (and Madheshi) pressure: the interim parliament voted – in advance of any constitution being agreed – that Nepal would be secular, i.e. no longer 'the world's only Hindu kingdom' (18 May 2006), and that it would be a republic and federal (28 December 2007). The newly elected CA voted at its first meeting (28 May 2008), with only four votes opposing, that Nepal should become a secular republic.³⁸

The Maoists dissolved their largely ethnically defined 'autonomous regions' and 'people's governments' on 18 January 2007. But the support that they had given to issues of Janajati rights was very influential in raising the hopes and expectations of Janajati activists. In June 2007 NEFIN held a successful two-day Nepal *band* or general strike, putting forward 20 demands, of which one was ratification of ILO 169, the main instrument by which internationally advocated indigenous rights are recognized as legal within nation-states. Subsequent negotiations laid the groundwork, so that, when the proposal was put to the new parliament on 22 August 2007, the Convention was ratified unopposed.

³⁷ See Ogura, Kiyoko. 2008. 'Maoist People's Governments, 2001-05: The Power in Wartime' in Gellner, D.N. & Hachhethu, K., eds. *Local Democracy in South Asia*. Delhi: Sage, pp. 175-231, esp. 216-17.

³⁸ On the extraordinary sequence of events which drove the Maoists and the political parties to combine against King Gyanendra in this way, leading to the end of the monarchy, see Jha, *Battles*, p. 94f.

Thus, Nepal became the first and so far only country in Asia to sign (from Oceania, Fiji has also signed). Subsequently, on 13 September 2007, Nepal also voted for the less binding but more radical UNDRIP 2007.³⁹

Encouraged by steps such as these, Janajati activists had high hopes that the new constitution would institutionalize a strong form of ethnic federalism. They hoped, among other things, (1) that the different states or provinces would be named after the ethnic group whose ancestral home they were; (2) that 51% of seats in the state assembly as well as the position of Chief Minister would be reserved for that group regardless of population size; (3) that the 'home group' would have prior rights (*agrādhikar*), e.g. preferential access to natural resources within 'their' territory; (4) that everything except currency, foreign affairs and defence would be devolved to the federal states; (5) that states would have the power to tax non-locals at higher rates than locals.

These hopes of ethnic federalism were to be disappointed. By the time the constitutional committees started to do their work 'ethnic' federalism was replaced with 'identity-based' federalism. Of the five demands or aspirations of ethnic activists, only the first, highly symbolic one, remained, and even that proved too controversial for the Bahun and Chhetri activists to accept. This distinction between the two forms was often ignored – many ethnic activists believed deliberately so – by the NC and UML.⁴⁰

Backlash: Bahuns and Chhetris seek to become indigenous

For many years Bahuns and Chhetris had paid little attention to 'ethnic' issues. That Janajatis should organize and campaign was perhaps natural. But they did not see much connection to themselves. A maverick intellectual like Dor Bahadur Bista might imply that the Chhetris should return to their Khas identity, rather than seeing themselves as Hindu Kshatriyas. ('Khas' is the old name for Chhetris, and in

³⁹ See Jones, Peris & Langford, Malcolm. 2011. 'Between Demos and Ethnos: The Nepal Constitution and Indigenous Rights'. *International Journal on Minority and Group Rights* 18: 369–86.

⁴⁰ See Snellinger, 'The Production of Possibility' (n. 5), p. 141–2.

some usages includes Bahuns also; the old name for the Nepali language is *khas kurā*, ‘speech of the Khas’.) Some Janajati activists, such as Keshab Man Shakya and Ang Kaji Sherpa, might encourage Chhetris to see themselves as Khas, to reject Hinduism, and to join an anti-Bahun alliance,⁴¹ but few knew of this, and fewer still cared. This all changed as the rules for the first CA election became clear and the date for the first election was fixed. It was initially planned for June 2007, was put off once till November 2007, and finally took place in April 2008.

The new CA nearly tripled the number of representatives in parliament, from 205 to 601. The justification was the introduction of a mixed system of direct (first past the post: FPTP) and proportional election (PR). FPTP seats were increased to 240 (to accommodate the increasing population of the towns and the Tarai), and there were to be 335 PR seats, with a further 26 appointed by the Council of Ministers. There were complex rules for ensuring proportionality among the candidates. All parties standing in more than 30% of national seats⁴² were obliged to select candidates from their PR list in line with proportions in the country: 50% women, 13% Dalits, 37.8% Janajatis, 4% from remote regions, 31.2% Madheshis, and 30.2% from ‘others’. (These percentages remained valid in 2013 as well.) Obviously, since these figures sum to well over 100%, it is only possible to satisfy these conditions thanks to intersectional double or triple counting: thus, a female Dalit Madheshi can be listed under all three heads: Women, Dalit, and Madheshi.

The original intention in the Interim Constitution of 2007 was for the 30.2% ‘others’ category to include minorities not covered by any of those explicitly mentioned (e.g. Muslims). But it was quickly taken to constitute a quota or entitlement for the larger categories that were not Dalits, not Janajatis, and not Madheshis – in other words for Bahuns, Chhetris, Thakuris, and Sannyasis. In 2013 Election

⁴¹ One Chhetri organization, the Khas-Kshatri Ekata Samaj-Adibasi Janajati (KKUS-IN), based in eastern Nepal has followed this line, which is flatly rejected by other Chhetri organizations. KKUS-IN itself later split over the issue.

⁴² Political parties putting forward PR lists of 100 or fewer candidates only had to satisfy the 50% female requirement, a concession to the Madheshi parties.

Commission lists put 'Khas Arya' against the names of candidates from Bahun, Chhetri, and similar backgrounds.

Bahun and Chhetris felt increasingly under attack and vulnerable. Reservations in the bureaucracy and army were seen as restricting their traditional avenues of employment; reservations in elections were limiting their political representation. On top of this, they became the target of aggressive political rhetoric;⁴³ the town of Pokhara in west Nepal, where there are large numbers of Bahuns and Chhetris, as well as Gurungs, became a focal point. According to local people, in 2006 Maoist leader Dev Gurung made a speech in Pokhara in which he declared that the country would not progress unless the 'pointy-nosed' people (i.e. Bahuns and Chhetris) had their noses cut off (a highly dishonouring traditional punishment) and were banished from the country. Janajati processions began to chant slogans such as 'Send Bahuns to Kashi [Benares, India] and Chhetris to *phāsi* [death by hanging]' (alternative version: 'Go to Kashi or face hanging'). Alarmed by such threats locally and nationwide, Bahuns and Chhetris began to organize.

Meanwhile, in the Tarai in January and February 2007, there was a massive uprising, sparked by the killing of a young Madheshi activist by a Maoist, directed against the Maoists, against Pahadis (all hill people – Bahun-Chhetris, Janajatis, and hill Dalits all considered, here, as one), and against the Nepalese state. King Gyanendra had been overthrown and the Interim Constitution was about to be declared, which would set the framework for new elections and a radical new constitution, with federalism on the cards. In this context, the Madheshis finally rose up against what they saw as decades, indeed centuries, of oppression and humiliation by a Pahadi-dominated state. They took to the streets, blockaded access to the capital, and, following some shocking violence, forced the acceptance of a federal structure that would recognize Madheshi interests. Madheshi armed groups began to target hill people as a category,

⁴³ This is a classic strategy of 'normative inversion' in the terminology of Wimmer, Andreas. 2008. 'The Making and Unmaking of Ethnic Boundaries: A Multilevel Process Theory' *American Journal of Sociology* 113(4): 970-1022.

who consequently felt increasingly vulnerable.⁴⁴ In response a new regional movement developed in 2007, called the Chure-Bhawar Rastriya Ekta Samaj, led by Keshav Prasad Mainali, who left the Nepali Congress to form this new party. It represented the interests of the Pahadi settlers, including Tamangs, in the central Tarai (on the southern slopes of the Chure-Bhawar hills), who were deeply threatened by the rise of the Madheshis.⁴⁵

In eastern Nepal (where there is a history of inter-ethnic tension and occasional violence)⁴⁶ anti-Bahun-Chhetri activities included even more aggressive slogans such as 'We will cut down Bahuns and Chhetris, lick their blood, and stick them on a wall'.⁴⁷ It is claimed that many Bahun-Chhetris were induced to leave their villages by assaults and harassment both during and after the Maoist insurgency.⁴⁸

⁴⁴ See Jha, *Battles*, pp. 200-2 on the Gaur massacre. On the Madhesh movement see also Gautam, Bhaskar, ed.

2012. *Madhes Bidrohko Nalibeli*. Kathmandu: Martin Chautari.

⁴⁵ Mainali entered the 2008 CA but was later expelled from the party and formed another party, the Chure-Bhawar Rastriya Party.

⁴⁶ See Whelpton, John. 2013. 'Political Violence in Nepal from Unification to Janandolan I: The Background to "People's War"' in Lecomte-Tilouine, M., ed. *Revolution in Nepal*, esp. pp. 48-51; Caplan, Lionel. 1970. *Land and Social Change in East Nepal*. London: RKP; Pradhan, Kumar. 1991. *The Gorkha Conquests*. Calcutta: OUP.

⁴⁷ See blogposting by BBC journalist Narayan Shrestha. *Sajha Sawal Gardaka Darjan Ghatana*. (bbcsajhasawal.com/mobile/np/blog/4/blog-title/ 21 August 2012). He reports that in March 2009 he heard for the first time in a mass meeting a similar slogan (*Bahunko nāk kātinchha, allo ragat chātinchha*). He also saw a pamphlet -- issued in the name of Pallo Kirant Limbuwan Rastriya Manch -- threatening death to anyone who spoke against Limbuwan. On tensions (but also attempts to mediate), see also 'The Carter Center's Observations on Identity-based Political Activity and Mobilizations in Nepal' (www.cartercenter.org/resources/pdfs/news/pr/CarterCenter-Report-IDBasedPoliticalActivity-ENG.pdf, consulted 18/8/15).

⁴⁸ ICG reported in 2011: "In Taplejung there is open hostility from Limbus towards their Brahmin neighbours; there have been threats and physical assaults. In several VDCs in Taplejung, either all or the vast majority of Brahmins left after 2000, when the war started in the eastern hills. In one VDC for example, none of the 50 Brahmin households

The fear of local persecution, combined with a crisis of identity at the national level as undifferentiated 'Others' without a designated province in the proposed federal set-up, forced Bahuns and Chhetris to think about their collective identity and to mobilize. In this context several Bahun and Chhetri organizations emerged spontaneously in different regions.

In Pokhara the Brahman Samaj Kaski, led by a local university teacher, Narayan Adhikari, was formed on 5 June 2009. Adhikari (no relation of the author) related:

During the course of the Maoists' declaration of their Tamuwān Rajya [i.e. Gurung autonomous region] in Pokhara, Tamu [Gurung] leaders chanted slogans like 'Brahmans to Kashi, Chhetris to *phāsi* [the gallows]', and one leader made a speech saying, "This is our land, you are immigrants/beggars (*āgantuk bhatuwā*) who ruled and oppressed us. We will not rest until we have flushed you out." They did this even with government Ministers present. Many incidents took place in Pokhara that made Bahuns feel insecure and persecuted for being who they are. For example, at Gandaki Hospital a girl from the Tamu [Gurung] community had died [allegedly due to the doctor's negligence]. Tamu organizations organized a violent demonstration and a difficult situation was created which resulted in negotiations and one million rupees compensation being paid to the victim. Then a similar kind of death occurred; this time the patient was a girl from a poor Bahun family. However, there was nobody to support her case and seek justice. The family was helpless. This incident like many others was a stark reminder that an organization is required to safeguard the interest of people who otherwise would not receive fair treatment in an increasingly divided society. (Narayan Adhikari, interview, 10/02/2012)

which existed in 1990 remains today, and most of their land is now owned by Limbus" (*Nepal: Identity Politics and Federalism*, Asia Report 199, January 2011, ICG, p. 15). A Carter Center team in eastern Nepal disputed these reports, suggesting that in fact most of these departures were inspired by economic reasons (personal communication, James Sharrock).

In October 2009, 12 Bahun organizations from all over Nepal met in Devghat and decided to merge to form one national organization, the Brahman Samaj Nepal (BSN). It spread rapidly with branches in 68 of Nepal's 75 districts, omitting only the Himalayan region where few Bahuns live. The BSN claims over 200,000 members throughout Nepal, including strong representation in the east of the country. Between October 2009 and May 2012 BSN organized many programmes ranging from peaceful demonstrations with religious hymn-singing to more politically aggressive 'torch' rallies (*masal julus*) and general strikes (*band*). A torch and motorbike rally held in Pokhara on 5 February 2012 is claimed to be the largest demonstration that city has ever seen.

The main demands of the BSN were and are: (1) an end to discrimination on the basis of caste/ethnicity; (2) the removal of Bahuns from the non-indigenous 'Others' group and granting them recognition as *mulbāsi* ('original dwellers' or indigenous people); (3) the promotion of a reservation system based on class not caste/ethnicity; and (4) not naming federal states (provinces) after particular castes/ethnic groups. And indeed these were the main slogans chanted at BSN demonstrations: 'Himal, Pahad, Tarai – no one is "other"' (*himal, pahād, tarai – kōhi chhaina parai*); 'Register Bahuns as *adivasi*' [*Bahunlai ādivāsīmā dartā gara*]; 'Cancel caste-based reservations' (*jātiya ārakshan khārej gara*); 'We don't want ethnic provinces' (*jātiya rājya cāhindaina*).

Several grassroots Chhetri groups merged to form larger organizations. Although relatively more Chhetris are organized and mobilized in Chhetri organizations than Bahuns in Bahun organizations, unlike the Bahuns, the Chhetris never managed to unite behind a single organization. The largest, claiming 500,000 members, and the most widely mobilized, is the Kshatree Samaj Nepal (KSN) based in Pokhara and originally led by Professor Dil Bahadur Kshetry. In response to the changing political scenario, in Kathmandu various kin-based (*gotriya*) Chhetri organizations federated in order to form the Khas Chhetri National Federation (KCNF). However, this went through multiple splits. More effective was the Khas Kshetri Unity Society-Indigenous Nationalities (KKUS-IN). Established in 2006 and led by former UML leader Yuvaraj Karki, the KKUS-IN (see fn 40 above) is based in Biratnagar in eastern Nepal, though it claims branches in 48 districts. The KKUS-IN differs fundamentally from other Chhetri groups in that it

argues that Chhetris are Adivasi Janajatis; hence it revives the title 'Khas' in its name. KKUS-IN is in favour of identity-based federalism and seeks to have a separate Khasan State, which is rejected by KSN who argue that Chhetris are indigenous (*adivasi* or *mulvasi*) but not Janajati.⁴⁹ The KSN argues for national integrity, and rejects any ethnicity-based division of Nepal. The views of KKUS-IN leaders – that the Brahmanical ideology ruined the country during the 240 years of Shah-dynasty rule – were closer to NEFIN than to other Bahun-Chhetri groups. In fact a large faction of the KKUS-IN, led by Durga Chapagain, which did not agree with the pursuit of Janajati status and ethnic federalism, broke away and formed a rival KKUS in 2009.

Efforts were made to unify the various Chhetri groups but without much success. An alliance named Khas Chhetri National Front (KCNF) was formed in 2009 that allocated regions to different organizations, but this did not operate well. The KSN continued to grow and became dominant in terms of size and ability to pressure the government. On the 22 May 2010, KSN's agitation, in particular a relay hunger strike, culminated in negotiations with the government which reached agreement on two points: (1) There should be further study regarding the eligibility of Chhetris as an Adivasi (but not Janajati) group; (2) Government reservation policy should be based on class, not ethnicity. A task force was formed and led by the KSN Chairman. On 11 February 2012, at the head of a cultural procession, he submitted a 130-page report to the Minister of Local Development, Top Bahadur Rayamajhi, documenting the indigenous character of the Chhetris.

<insert Figure 1 here>

⁴⁹ See 'Perspectives on Chhetri Identity and How these Relate to Confrontations over Federalism'. *Field Bulletin Issue* 46, September 2012 (www.un.org.np/resources/field-bulletins). Consistent with its position, the political party of the KKUS-IN, the Khas Samabesi Rastriya Party, merged with the parties of Ashok Rai and Upendra Yadav in June 2015 to form the Federal Socialist Forum Nepal.

In 2012 it became clear that alliances were needed as time was running out and a new and federal constitution was – so everyone assumed – likely to be declared. Despite some differences over the question of reservations, the KSN and BSN, along with eleven smaller groups, eventually managed to forge an alliance based on two main points: (1) ethnicity-based federalism is not acceptable, and (2) the Khas-Arya community must be removed from the 'Other' castes and be included with full rights as indigenous peoples. The alliance of 13 groups, named the 'Joint Struggle Committee for National Integrity and Ethnic Goodwill' (JSC-NIEG) (*rastriya akhandata ra jatiya sadbhavko lagi samyukta sangharsh samiti*), was formed under the leadership of the KSN chairman, Dil Bahadur Kshetry. The members of the alliance were: KSN, BSN, KKUS, Thakuri Society Federation Nepal, Nepal Dashnami Society, Bived Mukti Progressive Society, Dalit Jagaran Sewa Sangh, Nepal Rajput Service Society, Bhumihaar Society, and Nath Yogi Sampradaya. Some small Dalit groups also participated in JSC-NIEG on the grounds that Dalits too are members of the Khas-Arya family and were made stateless in the proposed federal models despite being 'indigenous peoples' of Nepal. However, KKUS-IN, in line with its anti-Brahman stance, did not join the alliance.

Initially the JSC-NIEG organized regional programmes and a 3-day sit-in (*dharna*) in front of the CA in Kathmandu. Then, on the 10 and 11 May 2012, the JSC-NIEG organized a Kathmandu general strike and launched other regional struggle programmes. The government invited the group for dialogue, but, disappointed at the failure to implement previous agreements with KSN, the Joint Struggle Committee insisted on negotiating directly with the Prime Minister, Baburam Bhattarai, in the presence of the leaders of all major political parties. Not receiving immediate agreement, they continued the strike on 12 May, completely halting business. To force the government to accept their conditions, the JSC-NIEG called an indefinite nationwide strike, at which point they were called for negotiations with the government. Eventually on 17 May the government and the JSC-NIEG team signed a two-point agreement: (1) federal provinces would not be named after ethnic groups or language; if agreement could not be reached in the CA, naming should be decided later by provincial assemblies themselves and if that failed it should be decided through a local referendum; (2) Bahuns, Chhetris, Thakuris, and Sanyasis should not fall under

the 'Other' label, but they and Hill Dalits should all be recognized as 'Khas-Arya' and as indigenous (*adivasi*).

As the deadline was approaching and proposals to create ethnic provinces were progressing through CA committees and commissions, people (mainly Bahun-Chhetris) from all over the country began to organize and protest in favour of 'undivided regional provinces'. These included: Undivided Far West, Undivided Mid West, Lumbini Ekata Samaj, Greater Chitwan Front, Birat State, and Undivided Morang. Of these different movements, the Undivided Far West became the most prominent and influential. The indefinite shutdown organized by the struggle committee for an undivided Far West particularly targeted the Maoist proposal to include Kailali and Kanchanpur districts in the proposed Tharuhat province; there was a counter-strike organized by Tharuhat groups. Combined together the strikes lasted for 32 days and this was the longest of all the various strikes affecting the country in this period. Eventually, on 16 May, the government and the Undivided Far West group signed a 4-point agreement including an understanding to keep the nine districts of the Far West undivided.

NEFIN flatly rejected these agreements and on 20 May called for an indefinite nationwide shutdown which resulted in sporadic violence targeting the press. Five days after signing the agreement with JSC-NIEG, on 22 May the government and NEFIN reached a nine-point agreement, one point being to disallow the recognition of Parbatiya groups as indigenous which had been agreed five days earlier.⁵⁰ The KKUS-IN also protested against the clubbing of all 'Khas-Arya' groups in one category, and called for the recognition of only the Khas-Chhetris as indigenous. On 26 May the JSC-NIEG restarted their street protests, organizing mass meetings in Kathmandu's open theatre and elsewhere. Many Bahun-Chhetris, particularly educated Bahun-Chhetris of the Kathmandu Valley who had never previously participated in such protests, joined these programmes. On 27 May, the final day by which the constitution was

⁵⁰ www.thehimalayantimes.com/fullNews.php?headline=NEFIN+listens+to+govt%3B+calls+off+bandh&NewsID=3330

[52](#) (consulted 28/05/2012).

supposed to be agreed, supporters of both NEFIN and JSC-NIEG went to encircle the CA.⁵¹ When protesters from the JSC-NIEG side reached the site, all sides of the CA building had already been occupied by NEFIN supporters. The number of people on the JSC-NIEG side both exceeded the expectations of the organizers and outnumbered the NEFIN protesters. Through the police, they sent a message to the NEFIN leaders to vacate one part of the area next to the CA building, which they did. Large numbers of police were mobilized to prevent any possible clashes. The situation became tense towards evening and the security forces had to fire rubber bullets to pacify the crowd.

After three extensions of the CA term, the Supreme Court on 25 November 2011 had agreed to a final extension of the CA and imposed a non-extendable deadline of 27 May 2012 for the completion of the new constitution. On 28 March 2012 Baburam Bhattarai's government sought a reconsideration from the Supreme Court, but it refused. On 24 May the Court issued an interim order to prevent the government extending the CA. The political parties continued to hold marathon negotiation sessions but failed to reach a minimum deal. The CA sat all day but the Speaker failed to appear and no vote could be taken. At midnight on 27 May Bhattarai addressed the nation on television and declared the dissolution of the house. The government remained in place, but, as a caretaker government, it lacked legitimacy. Bhattarai immediately announced new elections for November 2012, but it was to be another year before they could take place.

Conclusion: "Branded as 'others' and denied identity"

Reflecting on the results of the 2013 election in the *Kathmandu Post*, well-known writer Prakash A. Raj (a Kathmandu-based Bahun from an elite family) wrote:

It must be recalled that it was [Baburam] Bhattarai who had advocated 'priority rights' for the ethnic groups after which the states were to be named. In fact, in none of the proposed

⁵¹ For more details on the protests for and against ethnic identity-based federalism in April and May 2012, see 'Confrontation over Federalism: Emerging Dynamics of Identity-based Conflict and Violence'. *Field Bulletin Issue 41*, May 2012 (www.un.org.np/resources/field-bulletins).

single identity states, such as Limbuwan, Kirat, Tamsaling, Tamuwan, Magarat, Newa and Tharuwan, does the targeted group constitute more than half of the population. Unlike Prachanda, who is a demagogue, Bhattarai is a scholar with a doctorate. He must be aware of the ethnic distribution of Nepal's population. Many Maoist leaders, like leaders of mainstream parties such as the Nepali Congress and CPN-UML, belong to the Khas-Arya community, which make up a third of Nepal's population. They were branded as 'others' and denied identity.

As a result of the movement just before the dissolution of the first CA, Bhattarai's government was forced to grant the Khas-Arya the status of indigenous people. The Maoists did not grant them identity-based states even though they make up an overwhelming majority in the country's Mid and Far West. These regions are among the most backward in the country, unlike the eastern and western hills and the Kathmandu Valley. They were given geography-based states. Unlike in the first CA elections, the Maoists lost badly in this part of the country.⁵²

Raj articulates here what was asserted time and again by many ordinary Bahuns and Chhetris: "[we] were branded as 'others' and denied identity". It will not do for Prashant Jha to dismiss this movement as emanating from "the conservative elements of Nepali society".⁵³ Feelings of marginalization brought thousands of Bahuns and Chhetris on to the streets in what Jha has to admit was "a fairly impressive demonstration"⁵⁴ and reinforced the resolve of the main political parties to stand firm against what they branded as 'ethnic federalism'.

Prakash A. Raj also draws attention to the irony that Baburam Bhattarai, one of the most educated Nepali politicians with a PhD from JNU, himself a Bahun, had been the brains behind the

⁵² www.ekantipur.com/the-kathmandu-post/2013/12/11/editorial/whose-federalism/256842.html (consulted 14/8/15).

⁵³ Jha, *Battles*, p. xi.

⁵⁴ Jha, *Battles*, p. 331.

Maoists' declaration of autonomous ethnic regions. During the civil war he had been the head of the Maoists' United Revolutionary People's Council – effectively their underground parallel government – from 2001 to 2005. The first post-conflict government, of which the Maoists were a part, had signed Nepal up to ILO 169. And yet, in 2012, as Prime Minister of Nepal, at the head of a Maoist-led government, Bhattarai conceded indigenous status to Bahuns and Chhetris, effectively undermining the Janajatis' claims for special treatment (though, as we have seen, five days later he reversed this under pressure from NEFIN).

In 1993, when indigeneity discourses first arrived in Nepal, anthropologist Rajendra Pradhan noted that "indigenous peoples do not exist in Nepal; or if they do, the majority of the Nepalis are indigenous, including many of the Bahuns and Chhetris".⁵⁵ In 1995 Krishna Bhattachan spoke of incipient Bahun and Chhetri ethnicity.⁵⁶ It took a couple of decades for political discourses to catch up with the anthropologists' observations. In the diaspora, it is noteworthy that Bahuns have felt no need to form ethnic organizations. They are the only sizeable group to lack such organizations in the UK, in the USA, and wherever there are considerable numbers of Nepali migrants. Evidently, pan-Nepali, district-based, professional, political, Hindu and other religious organizations provide enough of an outlet for the associational needs of diaspora Bahuns. Yet in Nepal, it became, as we have described, a pressing political necessity to organize on a caste basis.

The political parties set up by members of these Bahun and Chhetri organizations – Akhanda Nepal Party, Rashtriya Swabhimani Party, Khas Samabesi Rastriya Party, Akhanda Sudurpaschim Party – did not do well in the 2013 elections (the Akhanda Nepal Party got one PR MP, the others none). However, the success of NC and UML, and the defeat of the Maoists, can be put down, in much of the country, to the large swing of the Bahun-Chhetri vote to those two parties. In the first CA the Maoists, along with explicitly Janajati-based parties, used the language of 'ethnic federalism'. The Maoist

⁵⁵ Pradhan, Rajendra. 1994. 'A Native by Any Other Name...' *Himal* 7(1): 41, 43-45, p. 45.

⁵⁶ Bhattachan, Krishna B. 1995. 'Ethnopolitics and Ethnodevelopment: An Emerging Paradigm in Nepal'. In Kumar, Dhruva, ed. *State, Leadership and Politics in Nepal*. Kathmandu: CNAS, p. 135.

manifesto for the 2013 election proposed ‘identity-based federalism’ and stated that the “the death of the first CA was due to the inability to dispel the disturbances/roadblocks (*gatirodh*) related to identity-based federalism.”⁵⁷ The UML and NC were able to brand this position ‘single-ethnicity-federalism’ (*ekala-jātiya-sanghiyatā*) and to claim that they stood for ‘multiple-identity-based federalism’ (*bahu-pahicānmā ādhārit sanghiyatā*), communal harmony, and the unity of all Nepalis.⁵⁸

The five hierarchically ordered macro categories – sacred-thread-wearer, alcohol-drinker (enslavable and non-enslavable), impure, and untouchable -- into which dozens of Nepali castes and ethnic groups were classified until the 1950s gave way, under the Panchayat regime, to a period when, officially, all were equal citizens and ascribed identities were supposedly a purely private matter. Persisting inequalities made this model untenable. What has emerged from dynamic political and cultural processes is a system of (partially overlapping) macro categories that, interestingly, also divides the country into five, though in this case there is no formal hierarchy: Khas-Arya, Janajati, Madheshi, Dalit, and Other (e.g., Muslims, though at times the majority of Muslims also find themselves included under ‘Madheshi’). In such a context, it is not surprising that the ‘Khas-Arya’ group would organize and claim the coveted indigenous status. The careful equivalence of ‘indigenous nationality’ (*adivasi janajati*) constructed by Nepal’s Janajati activists in 1994 following the UN’s declaration of a Year of Indigenous People had been forcibly broken apart.

If one distinguishes three levels of historical explanation – (1) the everyday or immediate, (2) the operation of ‘mid-level’ factors operating over years or decades, and (3) deep structural forces of the *longue durée* – then the explanation offered here for the failure of Nepal’s first constituent assembly self-evidently belongs to the middle level. Tom Bell offers a convenient list of six everyday reasons and conspiracy theories why the CA collapsed, the most plausible of which is the disappearance of the

⁵⁷ UCPN(M) election manifesto 2013, posted at kathmandutoday.com/2013/10/8928.html (consulted 14/8/15).

⁵⁸ The term ‘multiple-identity-based federalism’ came into use towards the end of first CA as an alternative to the single (ethnic) identity agenda in the formation of the federal states. See Snellinger, ‘The Production of Possibility’.

Speaker so that nothing could be put to a vote.⁵⁹ The middle-level explanation-cum-narrative offered by this paper has focused rather on a process of political ethnicity-building over the last 20 years, which was expressed explicitly through the organizations described and less overtly no doubt through many other channels as well. The pressure of Bahun-Chhetri ethnicity led the NC and UML parties to resist any compromise in the final days of the first CA.⁶⁰

When, in 2007, Nepal became the first Asian nation to ratify ILO 169, most MPs were largely unaware of what they were voting for. However, once the implications were realized, almost every group sought recognition as indigenous.⁶¹ This flexibility in the definition of indigeneity makes it difficult to apply in the South Asian case, as recognized by the ILO Director for India:

Article 1 of the Convention defines indigenous or tribal peoples in a very flexible manner. This is particularly relevant for countries having indigenous groups which originally migrated from other areas. This holds true for South Asian countries such as Nepal, Bangladesh and India, where in most instances it is much more difficult to make a distinction between indigenous and non-indigenous than in, let's say, Latin America where most IPs have been residing on their lands since time immemorial. An important element in the definition is self-identification. This refers to the collective right of any IP or community to decide who is and who is not a member of that group.⁶²

Fierce debate will continue over the coming years: Are all Nepalis indigenous or only some? Are some Nepalis more indigenous than others? Perhaps at some point hunter-gatherer groups like the

⁵⁹ Bell, Tom. 2014. *Kathmandu*. Delhi: Vintage/Random, p. 398.

⁶⁰ For an analysis that is closer to the third, *longue durée* type, see Mishra, Chaitanya. 2015. *What Led to the 2006 Democratic Revolution in Nepal*. Kathmandu: Social Science Baha & Himal Books (soscba.org).

⁶¹ An exception here is Muslims, whose construction of a pan-Nepali politico-religious identity depends, in most cases, on a claim *not* to be indigenous. See Sijapati, Megan Adamson. 2011. *Islamic Revival in Nepal: Religion and a New Nation*. London and New York: Routledge.

⁶² Kompier, Coen. 2005. 'ILO Convention 169 as a Tool for Development'. In S. Webster & Gurung, O., eds. *ILO Convention 169 and Peace Building in Nepal*. Kathmandu: NEFIN and ILO Nepal, p. 10.

Raute, with whom we began this paper, will start to advance the claim that *they* have the foremost claim to be considered indigenous and therefore to have preferential access to what remains of the forests of Nepal. If that were to happen, it would be yet another way in which Nepal would be following developments that have occurred earlier in India.⁶³

⁶³ See Shneiderman & Turin 'Seeking the Tribe' and Karlsson, Bengt G. 2013. 'The Social life of Categories: Affirmative Action and Trajectories of the Indigenous' *Focaal* 65: 33-41.

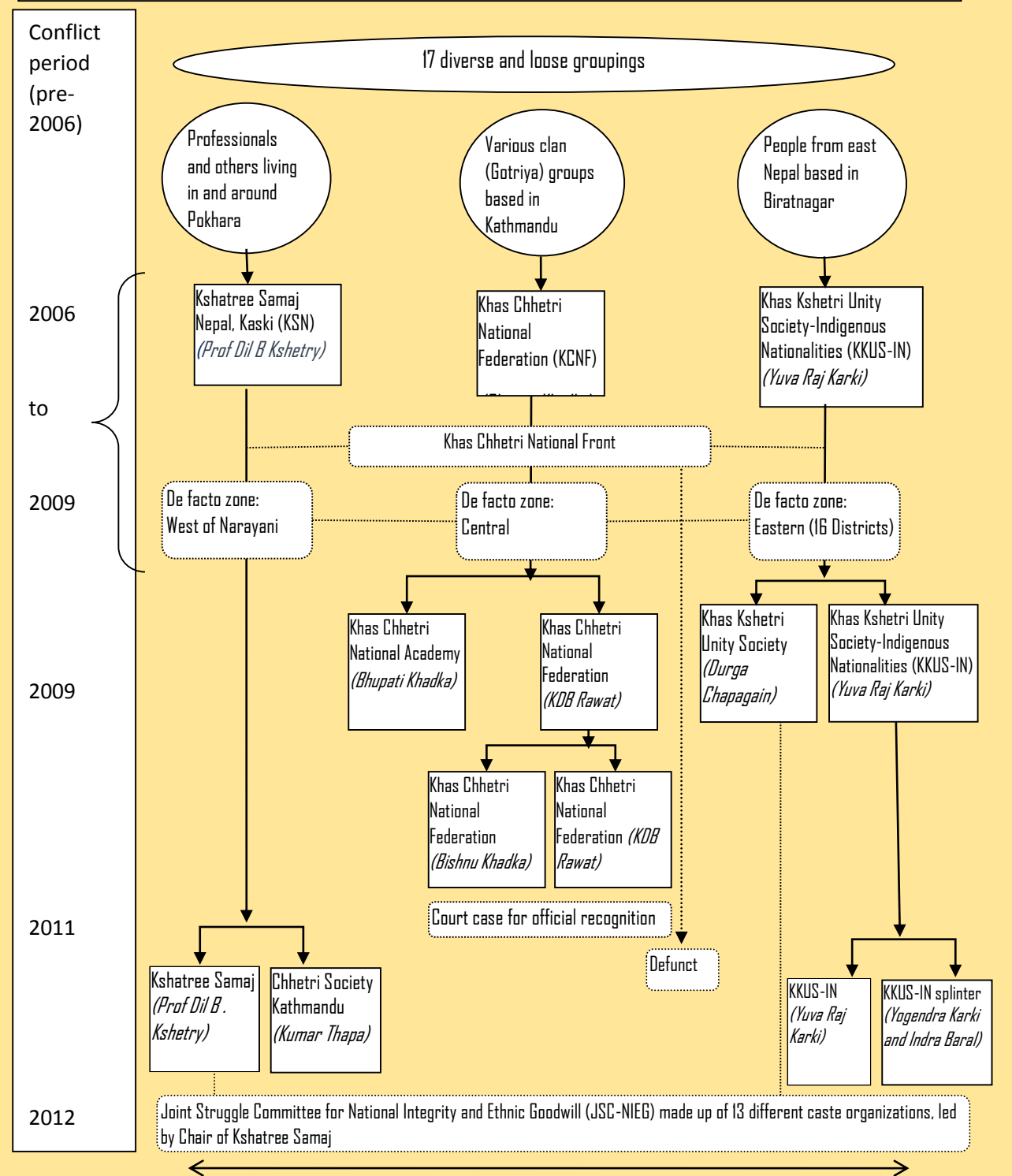
Table 1

Parbatiyas (‘hill people’)		Hill minorities (Janajatis)		Language loss among hill minorities	Taraians/Madheshis (‘plains people’)		Others	
Bahun (hill)	2.2%	<u>Magar</u>	7.1%	68%	<u>Tharu</u>	6.6%	Muslims	4.4%
Chhetri (incl. Thakuri)	18.2%	<u>Tamang</u>	5.8%	11%	Yadav	4%		
Dalit (hill)	8.1%	<u>Newar</u>	5%	34%	(+ many small castes incl. Tarai Dalits and Janajatis)			
		<u>Rai</u>	2.3%	16%				
		<u>Gurung/Tamu</u>	2%	50%				
		<u>Limbu</u>	1.4%	14.5%				
Totals	38%	+ c.25%			+ c. 32%	+ 5%	= 100%	

Table 1: Population breakdown of Nepal (2011 census) (total: 26,494,504) with figures for hill minority language loss (based on 1991 census figures).

Notes: Dalits = former Untouchables; Janajatis, underlined, are mainly those who were formerly called tribes. Estimated figures for language loss are taken from Whelpton, John. 1997. ‘Political Identity in Nepal: State, Nation, and Community’, in Gellner et al. (eds) *Nationalism and Ethnicity in a Hindu Kingdom*, p. 59. All figures and some labels are likely to be disputed. The total of all Janajatis, when Tarai Janajatis are also included, is 37.8% according to the 2011 census. The label ‘Madheshi’ is particularly disputed. Bahun and Chhetri Parbatiyas (including hill Thakuri, Dasnami, and, sometimes, Dalits) have recently (2012-13) come to be labelled ‘Khas-Arya’.

Figure 1: The evolution of Chhetri ethnic (caste) organizations in Nepal



Key: Dotted lines around boxes indicate alliances of different organizations and dotted lines between them indicate participation