

Questioning the Sanctity of 'Inclusiveness' of Constitution in Making Process: Reading Dissents and Demands in Nepal

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Abstract

The term "inclusion" is mystically undefined in any articulation of the Constitution of Nepal. This leads to two key assumptions: first, the concept of inclusion must be understood and practiced in alignment with its purpose; and second, it encompasses a broader scope and meaning. The constitution-making process is generally assumed to have incorporated the basic requirements of inclusion, as prescribed in constitutional law literature. Inclusion must be studied through the lens of exclusion, and it should be defined and acknowledged in light of historical grievances, supported by evidence and records of state neglect. This research follows the doctrinal method and is based on primary sources of authority. Nepal's constitution-making process has been often leading to the extreme proposition that exclusion can only be addressed through constitutional means and that inclusion is the ultimate remedy for all grievances. It is crucial to consider dissent in the constitution-making process when addressing public demands, as seen in Nepal. This paper is based on three central propositions for analyzing narratives of inclusiveness in the constitution-making process: first, whether the Nepalese constitution is inclusive in nature or character; second, to what extent inclusiveness has been addressed in the constitution; and third, what the perceptions of lawmakers and constitutional experts are regarding its inclusivity.

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Background

The constitution is considered a living document and is always accorded a higher status so that other laws and rules derive their legitimacy from it. This is not just a ritualistic expression in constitutional law—it has significant implications, particularly regarding the fundamental issues of inclusion and exclusion, which are widely discussed across disciplines. A key concern is: why is it so important to consider inclusiveness in the constitution-making process?

There may be multiple answers to this, but the rationale often lies in the need to incorporate the substantive values of inclusiveness as reflected in global literature, particularly in the process of translating ideal constitutional principles into the lived experiences of people (Kabeer, 2005). The idea of an ideal inclusive constitution also demands broader reflection, especially from scholars assessing the quality of inclusion and exclusion as core elements of deliberative constitution-making around the world (Sheppard, 2012).

The language of constitutionalism is often non-uniform and context-specific when it comes to defining "inclusiveness" in constitution-making processes (CMPs). Nonetheless, inclusiveness is widely recognized as a foundational norm ("*grundnorm*") that shapes the entire constitutional outcome (Eyzaguirre, 2021). The term "inclusiveness" has been interpreted and perceived in multiple ways in the constitutional literature. Some records describe CMPs as procedurally inclusive—focused more on process-driven outcomes that meet the minimal conditions of democratic constitutionalism. Others critique CMPs for failing to ensure real inclusion in the broader framework of transformative constitutionalism (Pathak, 2021). The several authors have linked inclusive CMPs with several outcomes such as increased legitimacy (Ghai, 2006) of the charter produced (Tushnet, 2018); greater constitutional endurance (Elkins et al., 2008); increased levels of democracy (Eisenstadt 2019); charters with more progressive rights provisions and enhanced rights protection (Samuels, 2006), and institutions that aim to protect minorities from majority rule (Blount et al., 2012). The two levels of inclusiveness: procedural and effective are seen in most of the literature relating to inclusiveness in constitution making process.

The formation of first CA was itself historic in Nepal with hope and aspirations which eroded long family based legacies and principally created democratic state. Nepal has also observed the inclusive principles amidst commitment shown both in international human rights law (IHRL) as well as national principles while taking part in constitution making process.

Most literature distinguishes between two levels of inclusiveness: procedural and effective, both of which are relevant to Nepal's experience in constitutional development.

Human Rights and Inclusion: Inseparable Correlation

Exclusion, marginalization, domination, denial, suppression, and discrimination have never been causes for celebration within the discourse of human rights literature. Wherever there is denial and neglect, the need for inclusion, participation, acceptance, and recognition arises—often voiced as demands from large sections of the population historically treated as subjects rather than citizens.

The relationship between human rights and inclusion is clearly correlatable. Their connection is tested based on the extent to which legal instruments address the major issues of inclusion during any law-making process. Human rights literature and practice suggest that inclusion should be considered fundamental to all aspects of social life, especially in matters where the state interacts with the public interest.

While models of inclusion may vary and are open to discussion, denial of inclusion is never legitimized in rights-based frameworks. Human rights obligations generally fall into three core responsibilities for the state: to respect, to protect, and to fulfill rights. These responsibilities are echoed in domestic legislation as well, which may explain why the Government of Nepal has enacted various laws and rules to promote good governance and fulfill legal obligations in alignment with international human rights standards (Lamichhane, 2021).

International human rights law strongly reflects the principle of inclusion. Core human rights treaties contain specific provisions on inclusion. For example, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) emphasizes inclusion as essential to women's empowerment and development (Union, 2003). Similarly, the principle of equal participation under the United Nations Convention on the Rights of the Child (UNCRC) highlights the importance of inclusion from a child rights perspective. Many other international instruments reflect similar commitments (Lundy et al., 2013). Although the language used may vary depending on the treaties' purpose, the essence remains the same when implemented by member states (Brolmann, 2005).

The Government of Nepal has committed, through various legislative measures, to ensuring inclusion across public governance sectors. Historically, state practices were marked by systemic exclusion, but this has now been challenged through mandatory legal provisions. Inclusion is becoming a critical tool for maximizing the values of democratic participation and justice.

Constitutional principles of inclusion in Nepal have transformed many lives and empowered historically marginalized communities. Although progress has been made, the process is not yet

complete. Legal mandates have required the participation of women, marginalized groups, and excluded communities—ensuring equitable access and benefits under law. All tiers of government, not just the federal level, are responsible for implementing inclusion mandates.

This topic also formed part of discussions during the constitution-making process. Multiple committees of Nepal's first Constituent Assembly (CA) discussed the forms and depth of inclusion required in governance. These discussions aimed to ensure that historic injustices could be repaired through meaningful participation and recognition in state mechanisms.

The inclusiveness of Nepal's CMP was also evaluated through both procedural aspects and substantive impacts. These readings, grounded in dissent and historical grievances, were essential in establishing a more inclusive constitutional framework.

Measuring Procedural Inclusiveness

Procedural inclusiveness is primarily evaluated during the deliberation phase and the ratification phase of the constitution-making process. These phases are central in the literature that maps the elements and practices of inclusion in constitution-making processes (CMPs). The framework used here draws upon models established by Widner (2005).

Deliberation Scale	Descriptions	Nepal's Fact
(1) Top-down models	Only high-ranking government and political officials take part in the deliberation of the text of the constitution.	Not applicable
(2) Legislature model	The task of deliberating on the content of a new constitution is given to the ordinary elected legislature.	Applicable
(3) Mixed constituent assembly model	An assembly is summoned for the task of deliberating over the content of a new constitution, but it is also in charge of legislative duties or other government functions.	Applicable
(4) Pure constituent	A special assembly is summoned with the sole or primary task of deliberating over a new	Not applicable

assembly model	constitution’s content and is dissolved afterwards.	
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The deliberation phase in Nepal's CMP was designed to invite participation in discussions on various constitutional articles and issues (Maboudi, 2020). Given that constitutional provisions have long-term, intergenerational impacts, inclusive deliberation is crucial (Watts, 2017). Meaningful participation by all stakeholders across society is considered a best practice in many jurisdictions, and multiple models have been adopted globally to ensure such participation (Hassenforder, 2015).

Inclusion during the deliberation phase serves two purposes: it enables diverse stakeholders to contribute and even voice dissent, fostering a sense of ownership over the constitutional text. It also enhances the likelihood of effective enforcement and long-term sustainability of constitutional principles (Morris, 2012).

When participation is lacking at the deliberation stage, the legitimacy and lifespan of the constitution may be undermined (Bovenkerk, 2015). In Nepal, concerns have been raised that the CMP did not adequately ensure inclusive participation. Many argue that expected groups and communities were not given sufficient space, time, or voice during deliberations (Dahal, 2017). This perception was evident in the contrasting public responses to the promulgation of the constitution on Ashoj 3—celebrated as a "Pride Day" by some, and observed as a "Black Day" by others.

Inclusion, if not properly addressed, can have multidimensional impacts, weakening the enforcement of constitutionalism, the rule of law, democracy, and long-term political stability.

Nepal’s constitution does secure the broader essence of procedural inclusion as an integral part of the CMP (Bhandari, 2012). However, procedural inclusion is not merely a technical process; it requires active, meaningful participation at every step of the process (Constituent Assembly Secretariat, 2015). Inclusion must go beyond legal language and be effectively communicated and implemented (Wright, 2010). The international framework identifies five ratification models for CMPs (Widner, 2005):

Ratification Scale	Description	Nepal's Fact
(1) Approved	Cases in which the right to ratify the	Non-applicable

through a top-down process	constitution is reserved to certain government and political officials, with neither popular participation nor representation whatsoever.	
(2) Approved by congress	The congress approves the new constitution.	Non-applicable
(3) Approved by a mixed constituent assembly	A constituent assembly, which was summoned with the task of ratifying a new constitution but also took care of other legislative duties or government functions, approves the new constitution	<i>Applicable, The CA of Nepal was with dual responsibilities like ratifying constitution as well as legislative functions of the government.</i>
(4) Approved by a pure constituent assembly	A constituent assembly, which had the sole or main task of ratifying the charter, approves the new constitution.	Applicable
(5) Approved through a popular referendum	In this case, it is the people who can directly express their will to ratify a new constitution, regardless of who deliberated over the content and drafted the constitution.	Non-applicable

The ratification stage also tests the inclusiveness of CMPs. Global practices categorize CMPs into six types based on procedural inclusiveness:

1. Non-inclusive process (Non-inclusive processes are those that lack any type of popular participation or representation in the constitution-making processes)
2. Hybrid process (Hybrid processes are those that combine inclusive constitution-making phases -either at the deliberative or ratification stage- with non-inclusive ones (for example, when the executive decides on the content of the constitution and then, submits its approval to a public referendum)
3. Low inclusiveness (Processes with low inclusiveness occur when the ordinary legislature is given both the task of deliberating over the content of the new charter and its ratification)

4. Moderate inclusiveness (Moderate inclusiveness processes are those in which the deliberative body is a mixed constituent assembly and that same body also has the responsibility of ratifying the constitution)
5. Moderately-High inclusiveness (Processes with moderately-high inclusiveness happen either when a pure constituent assembly has the task of deliberating over the content of a new charter or that same assembly ratifies)
6. Highly inclusiveness (High inclusiveness processes are those in which deliberation is entrusted to a body that has been elected for the sole or main task of producing a new constitution -namely, a pure constituent assembly- and the responsibility of ratifying the charter is given to citizens through a referendum)

Globally, CMPs strive for inclusion in both deliberation and ratification. The central goals of inclusiveness include proportional representation, addressing marginalization, and promoting public ownership of the constitution. A more inclusive process is expected to yield a more legitimate and sustainable constitution.

Nepal's CMPs, particularly through its first and second constituent assemblies, reflect aspects of these six inclusiveness models. These must be critically assessed to determine whether Nepal's constitution-making process was truly inclusive in both form and substance (Slavu, 2012).

Measuring Effective Inclusiveness

Effective inclusiveness goes beyond the traditional procedural forms outlined in constitutional and rule of law literature (Sheppard, 2012). It assesses not just whether the correct steps were followed in the constitution-making process (CMP), but also the tangible impacts of that process—particularly for historically excluded groups. In other words, it measures both outcomes and the transformative potential of inclusion.

Effective inclusiveness involves evaluating not only technical compliance but also how deeply the process and outcomes reflect democratic and participatory ideals. It includes an assessment of how inclusion has shaped the resulting constitutional values, institutions, and access to state power. In principle, effective inclusiveness is grounded in: democratic conditions (including participatory, deliberative, and liberal democratic norms), procedural inclusiveness (during both deliberation and ratification phases), and electoral democracy conditions (ensuring the representation of marginalized voices in decision-making bodies).

Thus, effective inclusiveness is a function of both democratic integrity and procedural legitimacy. It reflects how inclusive the entire CMP was—not just in process, but in consequence.

A highly effective CMP not only checks the boxes of legal formality but also addresses long-standing grievances of marginalized populations. It ensures that previously excluded communities have both a voice in shaping constitutional provisions and access to the rights and protections that follow. In this sense, effective inclusion is inherently transformative.

The remainder of this section—and indeed this paper—examines whether Nepal's CMP satisfied these conditions and achieved effective inclusion in both process and outcome.

Methodology

This research is grounded in doctrinal methodology and relies primarily on authoritative sources commonly used in legal scholarship. The principal doctrines applied in this paper reflect both international and domestic principles relevant to constitution-making processes. The sources used are predominantly primary legal materials, including: constitutional texts, statutory provisions, case law, legal doctrines and state records.

In addition, secondary sources—such as constitutional law textbooks, legal commentaries, academic journal articles, and comparative studies—are employed to support analysis and interpretation.

This paper engages in a critical analysis of the entire constitution-making process (CMP) of Nepal, examining how inclusion has been articulated and addressed in the legal framework. The study closely examines all 35 chapters of the Constitution of Nepal to assess: the explicit references to inclusion, inclusiveness, or inclusive principles. Moreover, the paper also considers international models and practices to gauge the relative reflection of inclusion in Nepal's CMP. These comparative insights help to determine whether Nepal's approach aligns with global standards of inclusive constitutionalism. This research is qualitative in nature and seeks to interpret legal texts and processes through the lens of participatory democracy and social justice.

Mapping Inclusion in the Constitution of Nepal

The history of Nepal—a Himalayan nation known for its natural beauty and diverse cultures—is deeply marked by repression, socio-political exclusion, economic disparity, regional inequality, and widespread poverty (Geiser, 2005). How can a country so naturally rich struggle for decades to build a society rooted in cohesion, equality, equity, rule of law, and inclusive development, free from marginalization and exclusion (Oommen, 2010).

The historical patterns of exclusion became apparent when the first draft of the Interim Constitution strongly reflected inclusion as a non-negotiable issue among major political parties (Nepal, 2017). A nation striving for sustainable progress cannot afford to let exclusion define its political identity. The semiotic and symbolic value of inclusion has increasingly become a guiding principle in state policies, often serving as a warning signal when the government deviates from it.

Inclusion fosters community cohesion and contributes to national unity. It must be understood as a dynamic aspiration—a core narrative that must be embedded in the constitution-making process of Nepal (Ghai, 2011).

Assessing Constitutional Inclusiveness

The constitutional inclusiveness is measured in various terms and ways so that how far constitution is inclusive or non-inclusive is mapped on basis of response of term inclusion in every aspects of the constitution-making process (Maboudi, 2020). Constitutional inclusiveness can be assessed through explicit and implicit references to inclusion in various parts of the constitution. Nepal’s constitution has been praised for its progressive features, particularly in how it deals with historical exclusion (Guragain, 2024). The discourse of inclusion is always framed in contrast to past exclusion—especially systemic marginalization, inequality, and discrimination (Kabeer, 2000).

The following chart summarizes how and where inclusion is reflected across different parts of the Constitution of Nepal:

S.N.	PART	REFLECTION	REMARKS
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1.	Preambleresolving to build an egalitarian society founded on the <i>proportional inclusive</i> and participatory principles in order to ensure economic equality, prosperity and social justice.....	The proportional inclusiveness need to be addressed.
2.	Preliminarysovereign, secular, <i>inclusive</i> , democratic, socialism-oriented, federal democratic republican state.....	
3.	Citizenship	*****	No mention
4.	Fundamental Rights and Duties	Women shall have the right to participate in all bodies of the State on the basis of the principle of <i>proportional inclusion</i> . (art.38(4)).... on the basis of <i>positive discrimination</i> (art.38 (5)	The proportional inclusion and inclusive principle in this chapter are developed based on universal assumptions of fundamental rights and duties.
	The Dalit shall have the right to participate in all bodies of the State on the basis of the principle of <i>proportional inclusion</i> (art.40 (1)	

	Khas Arya shall have the right to participate in the State bodies on the basis of <i>inclusive principle</i> (art.42(1))	
5.	Directive Principles, Policies and Obligations of the Stategender equality, proportional inclusion, participation and social justice (art.50(1))... incorporating the principle of proportional participation in the system of governance..... Policies relating to social justice and <i>inclusion</i>(art.50 (j))...	The issues of inclusion has to be one of major yardstick for the government in their every consideration and plans and policies.
6.	Structure of State and Distribution of State Power	... egalitarian society based on pluralism and equality, <i>inclusive representation</i> and identity (art.56 (6))....	The inclusive representation are not only substantial rather require meaningful reflection in the process of testing heads in every structure of the state.
7.	President and Vice-President	*****	No mention

8.	Federal Executive	.. The President shall, on recommendation of the Prime Minister, constitute the Council of Ministers comprising a maximum of twenty five Ministers including the Prime Minister, in accordance with the <i>inclusive principle</i> , from amongst the members of the Federal Parliament. (art.76 (9))	The composition of the state authorities based on inclusive principles so that true democratic values can sustain.
Sep-32	Legislature, financial procedures, judiciary, Attorney General, State executive, legislature, local executive, legislature, governments inter relationship, CIA, Auditor General, PSC, Election, political parties, emergency powers, Commission, NHRC, and other commissions, etc.		No mention

33	Miscellaneous	Art. (283). Appointments to be made in accordance with inclusive principle: Appointments to offices of Constitutional Organs and Bodies shall be made in accordance with the <u><i>inclusive principle</i></u> .	The word inclusive principles is not defined anywhere in constitutional article. The inclusive principle has multiple meanings and generally its significance are drawn in association with the larger subject matters. This chapter has also not defined proportional inclusive principle and how these principle is different than the inclusive principles in same chapter.
		285. Constitution of government service.....(2) Positions in the Federal civil service as well as all Federal government services shall be filled through competitive examinations, on the basis of open and <u><i>proportional inclusive principle</i></u> .	
34-36	Transitional Provisions, definitions and interpretation, short title, commencement and repeal,		No mention

Key Observations

The Constitution of Nepal uses terms such as proportional inclusive, inclusive, proportional inclusion, positive discrimination, inclusive principles, and inclusive representation at least eight times in core provisions. However, none of these terms are formally defined in the constitution. Their meanings and scope are ambiguous and context-dependent.

Whether the existing language is sufficient to fully address historical grievances remains an open question. These terms need clearer construction and interpretation to ensure effective implementation. The broader aim of inclusion in the constitutional context is to benefit historically excluded groups and those denied equal access to rights and resources. Yet the use of multiple overlapping terms without operational clarity risks rendering “inclusion” conceptually vague and politically manipulable (Mangerud, 2014).

Different jurisdictions approach inclusion through varying normative frameworks. In Nepal, exclusion has historically meant more than denial of participation—it includes deep-rooted inequalities based on caste, culture, geography, gender, and religion (Bishwakarma, 2018). Thus, the CMP must address exclusion on these deeper levels to truly fulfill its inclusive mandate.

If the constitution-making process is comprehensively inclusive, it can be seen as a response to historical dissent and denial. In this case, the constitution itself becomes a remedial tool—one that breaks from exclusionary legacies and lays the foundation for long-term democratic values (Campus, 2014).

Measuring Deliberative and Effective Inclusion in Nepal's CMPs

Roughly 15–20 years ago, scholarly debates around deliberative theory and constitutionalism began to shift toward the practical application of deliberative processes in constitutional design (Ackerman, 1991). Constitutions are often viewed as standing in tension with democratic norms, and deliberative democratic ideals are no exception (Dryzek, 2002). While constitutions structure the relationship between the people and the state, they rarely capture the full complexity of political, social, and economic forces—including discourse, power networks, administrative cultures, and global influences.

Scholars such as Landwehr (2015) emphasize the importance of a “craft” approach to constitutionalism—one that allows democratic deliberation not just over outcomes, but over the

rules and values that shape those outcomes. This process is referred to as “meta-deliberation” (Parkinson, 2018).

In the context of Nepal, effective inclusion must be evaluated from the very beginning of the constitution-making process and observed at each stage of deliberation within the Constituent Assembly (CA). Since Nepal adopted the CA model, it was expected to embody both procedural fairness and substantive inclusiveness.

The effectiveness of inclusion in the CMP is influenced by several factors, such as: political dynamics and party negotiation, historical patterns of marginalization, national interest and reconciliation, the institutional design of the CA, public access to participatory channels, and constituent Assembly as a response to historical exclusion.

The establishment of Nepal's Constituent Assembly was one of the most significant political achievements in the post-insurgency era. It was conceived not merely as a legislative body but as a remedial instrument to draft a constitution through popular participation and to respond to deep-rooted social and historical exclusions.

To that end, the CA embraced multiple participatory mechanisms aligned with global principles of inclusion and justice. In November 2008, the CA finalized the Rules of Procedure, 2065 (2008), which laid out its dual mandate: constitution-making and legislative governance. These rules called for the creation of a Constitutional Committee, ten thematic committees addressing substantive constitutional concerns (e.g., inclusion, federalism, minority rights), and three procedural committees to manage participatory processes.

In March 2009, CA members visited every electoral constituency in Nepal to gather citizens' views. This form of outreach was celebrated as a model of deliberative democracy, not just regionally but in global literature on participatory constitution-making (Breen, 2018).

Inclusive Representation in CA Committees

Committee members were selected based on party representation in the CA. However, additional emphasis was placed on ensuring representation from women, indigenous communities, dalits and other marginalized groups, backward regions and religious minorities (e.g, Muslims).

This was a response to long-standing demands and grievances voiced by communities who had historically been excluded. The formation of caucuses based on identity groups during the CMP (in both CA-I and CA-II) further illustrates the level of dissent and the urgency of their demands.

Several civil society actors and international organizations were also engaged in facilitating these voices—another positive indication of inclusive practice (Gluck, 2015). Participation in these committees empowered marginalized communities to shape not just the substance of the constitution, but also the structure of democratic governance.

Roles and Responsibilities of Committees

The Constitutional Committee—consisting of 61 members—held the overarching responsibility of compiling the final draft of the constitution. Meanwhile, ten thematic committees were tasked with drafting specific sections which were: Committee on Fundamental Rights and Directive Principles, Committee on the Protection of the Rights of Minorities and Marginalized Communities, Committee on the Restructuring of the Nation and Distribution of National Power, Committee on the Form of the Legislative Body, Committee on the Administrative Form of the State, Committee on the Judicial System, Committee on the Structure of Constitutional Bodies, Committee on Natural Resources and Fiscal Distribution, Committee on Cultural and Social Commitments, Committee for the Preservation of National Interest

Each thematic committee submitted preliminary drafts and concept notes, which were forwarded to the Constitutional Committee. This structure enabled layered deliberation, combining technical expertise with representative inclusion (Khanal, 2018).

Public Participation and Ownership

Public participation was not limited to consultation; it was institutionalized. Three procedural committees were tasked with ensuring citizen feedback: Committee on Citizens, Committee on the Collection and Coordination of Public Opinion, and Committee on Capacity-Building and Source Management.

This framework created a feedback loop between drafters and the public, promoting both legitimacy and ownership through participatory process promoting constitutional legitimacy, encouraging government accountability, enhancing citizen engagement, and building a sense of community and belonging (Fung, 2015).

When implemented well, participatory CMPs leave citizens feeling that the constitution is "theirs"—a foundational aspect of lasting constitutional success.

Nepal's constitution-making process demonstrated substantial effort toward deliberative and effective inclusion. The presence of diverse committees, outreach programs, public feedback loops, and minority participation mechanisms reflected a genuine commitment to inclusion.

While debates remain about the degree of effectiveness, the process undoubtedly attempted to repair historical injustices and institutionalize inclusiveness as a constitutional value.

Conclusion

The narrative of inclusion in the constitution-making process is crucial for addressing historical dissents and demands—especially those that have long remained unacknowledged due to entrenched ruling mentalities and exclusionary governance models. Nepal's constitutional journey has attempted to respond to these grievances by incorporating inclusive language and participatory procedures in both the drafting and ratification phases.

The Constitution of Nepal uses various terms—such as inclusive, inclusiveness, proportional inclusion, positive discrimination, and inclusive principles—across multiple provisions. These references are evident in key areas such as: appointments to constitutional bodies, civil service recruitment, representation in state institutions, fundamental rights of marginalized groups, and directive principles guiding state policy.

These inclusivity measures are not mere symbolic gestures; they represent meaningful steps toward repairing historical injustices and redefining the state's relationship with its diverse population.

The constitution-making process itself also reflects a reasonable level of inclusiveness, particularly through: broad-based participatory mechanisms, diverse and representative committee structures, institutional efforts to gather and incorporate public feedback, and deliberative engagement with historically marginalized communities.

Interviews and assessments by constitutional experts suggest that substantive inclusion has been achieved to a fair extent. However, it is equally acknowledged that the process was not perfect. Some demands remain unaddressed, and not all dissenting voices were fully accommodated.

Nevertheless, the government of Nepal has demonstrated a positive commitment to upholding the principles of inclusion. Over time, it is hoped that residual grievances will be addressed through ongoing legal and policy reforms guided by constitutional values.

In summary, the notion of inclusion, both as a process and as a principle, is firmly embedded in Nepal's constitutional architecture. While the journey is still ongoing, the foundation laid by the constitution offers a robust framework for promoting justice, equity, and participatory democracy in the years to come.

References

- Bhandari, S. (2012). Constitution making and the failure of constituent assembly: The case of Nepal. *Ritsumeikan Annual Review of International Studies*, 11, 1-40.
- Bishwakarma, M. B. (2018). *Political transformations in Nepal: Dalit inequality and justice* (Doctoral dissertation).
- Blount, J., Elkins, Z., & Ginsburg, T. (2012). *Does the process of constitution-making matter? . 31*. Cambridge: Cambridge University Press.
- Bovenkerk, B. (2015). *Public deliberation and the inclusion of future generations. Jurisprudence*, 6(3), 496-515.
- Breen, M. G. (2018). Nepal, federalism and participatory constitution-making: deliberative democracy and divided societies. *Asian Journal of Political Science*, 26(3), 410-430.
- Brolmann, C. (2005). Law-making treaties: form and function in international law. *Nordic J. Int'l L.*, 74, 383.
- Constituent Assembly Secretariat. (2015). *Constitution of Nepal 2015*. Kathmandu: Constituent Assembly Secretariat, 19, 505.
- Dahal, G. (2017). Constitution of nepal and political development: Adaption and challenges of implication. *Janapriya Journal of Interdisciplinary Studies*, 6, 148-159.
- Dryzek, J. S. (2002). *Deliberative democracy and beyond: Liberals, critics, contestations*. OUP Oxford.
- Eisenstadt, T. A., & Maboudi, T. (2019). Being there is half the battle: Group inclusion, constitution-writing, and democracy. *Comparative Political Studies*, 52(13-14), 2135-2170.
- Elkins, Z., Ginsburg, T., & Blount, J. (2008). The citizen as founder: public participation in constitutional approval. *Temp. L. Rev.*, 81, 361.
- Eyzaguirre, C., & Charlin, V. (2021). A century of constitution-making in Latin America: an inclusiveness-based comparative analysis (1917-2016). *Latin American Law Review*, (06), 1-24.
- Fung, A. (2015). Putting the public back into governance: The challenges of citizen participation and its future. *Public administration review*, 75(4), 513-522.

- Geiser, A. (2005). *Social exclusion and conflict transformation in Nepal: Women, Dalit and Ethnic groups FAST country risk profile Nepal*.
- Ghai, Y. (2011). Ethnic identity, participation and social justice: A constitution for new Nepal?. *International Journal on Minority and Group Rights*, 18(3), 309-334.
- Gluck, J., & Brandt, M. (2015). *Participatory and Inclusive Constitution Making*, United States Institute of Peace.
- Guragain, G. P. (2024). Progress of Diversity and Inclusion in Nepal. *Damak Campus Journal*, 13(1), 1-14.
- Hassenforder, E., Smajgl, A., & Ward, J. (2015). Towards understanding participatory processes: Framework, application and results. *Journal of environmental management*, 157, 84-95.
- Kabeer, N. (2000). Social exclusion, poverty and discrimination towards an analytical framework. *IDS bulletin*, 31(4), 83-97.
- Kabeer, N. (2005). *Introduction: The search for inclusive citizenship: Meanings and expressions in an interconnected world*.
- Khanal, K. (2018). Participatory Constitution-Making in Nepal (2008–2015). *Studies in Nepali History and Society*, 23(1), 59-102.
- Lamichhane, B. P. (2021). Good governance in Nepal: Legal provisions and judicial praxis. *Journal of Political Science*, 21, 19-30.
- Landwehr, C. (2015). Democratic meta-deliberation: *Towards reflective institutional design*. *Political Studies*, 63(1_suppl), 38-54.
- Lundy, L., Kilkelly, U., & Byrne, B. (2013). Incorporation of the United Nations Convention on the Rights of the Child in law: A comparative review. *The International Journal of Children's Rights*, 21(3), 442-463
- Maboudi, T. (2020). Participation, inclusion, and the democratic content of constitutions. *Studies in Comparative International Development*, 55(1), 48-76.
- Mangerud, I. (2014). *The Politics of Inclusion and Exclusion in Democratizing Nepal* (Master's thesis).
- Morris, K. S. (2012). The Case for Local Constitutional Enforcement. *Harv. CR-CLL Rev.*, 47, 1.

- Oommen, T. K. (2010). Evolving inclusive societies through constitutions: The case of Nepal. *Contributions to Nepalese Studies*, 37(1), 1-16.
- Parkinson, J. (2018). Ideas of constitutions and deliberative democracy and how they interact. *The Cambridge handbook of deliberative constitutionalism*, 246-255.
- Pathak, A. (2021). Transformative Constitutionalism: A Pragmatic Approach to Social Inclusiveness. *Indian JL & Legal Research*, 3, 1.
- Samuels, K. (2006). Constitution building processes and democratization: A discussion of twelve case studies. *Geneva: IDEA*..
- Sheppard, C. (2012). Inclusion, Voice, and Process-Based Constitutionalism. *Osgoode Hall LJ*, 50, 547.
- Slavu, C. (2012). The 2008 constituent assembly election: social inclusion for peace. *Nepal in Transition: From People's War to Fragile Peace*. New York: Cambridge UP, 232-254.
- Tushnet, M. (2018). *Advanced introduction to comparative constitutional law*. Edward Elgar Publishing
- Union, I. P., & United Nations (2003). *The Convention on the Elimination of All Forms of Discrimination against Women and Its Optional Protocol*. UN.
- Watts, J. (2017). Multi-or intergenerational learning? Exploring some meanings. *Journal of Intergenerational Relationships*, 15(1), 39-51.
- Widner, J. (2005). Constitution writing and conflict resolution. *The Round Table*, 94(381), 503-518.
- Wright, D. (2010). Structuring stakeholder e-inclusion needs. *Journal of Information, Communication and Ethics in Society*, 8(2), 178-205.