

The System of Representation for the Constituent Assembly Elections in Nepal

An assessment and suggestions for future elections

Kåre Vollan, 17 June 2008

1. Introduction

The discussions of a new Nepal were intensified when the conflict between the main parties and the King reached a peak in 2002. The first agreement between the seven party alliance (SPA) and the Maoists on 22 November 2005 created a broad fundament for the discussions, and after the reinstatement of the House of Assembly on 24 April 2006 there was a clear direction towards a multi-party election of a Constituent Assembly. The framework for the elections was defined in the six-point agreement between the government (now consisting of the SPA) and the Maoists on 8 November 2006. This agreement stated that “The election of the constituent assembly will be based on mixed electoral system. 205 members will be elected through a First-Past-The-Post system. 204 members will be elected as per the proportional representation system on the basis of votes won by the political parties.” In addition “16 members will be nominated by the interim Council of Ministers from among distinguished persons”.

As for the inclusiveness the agreement stated that: “While appointing the candidates, the political parties should ensure proportional representation of oppressed groups, region, Madhesi, Women, Dalit and other groups.”

The Interim Constitution of 15 January 2007 added a few features to the system, but the principles were kept.

The term mixed system was not defined, and the possibilities were that it could mean a parallel system or a mixed member proportional system (MMP). In a compromise deal between the government and the Maoist on 21 February 2007 it was concluded that the term was to mean a parallel system conducted with two ballots¹.

This paper discusses some of the options on the table before the decisions on a parallel system were taken, the implementation of the system including the rather complicated quota system, and it presents some thoughts for the future.

The paper will in the discussion comment on the system as it was during the 10 April 2008 elections, after several amendments regarding the number of seats in the two election races (constituency-based first past the post (FPTP) and the nationwide proportional²) and in the appointed members, as well as some on other issues.

2. The discussions of systems in 2006 and 2007

¹ Having only one ballot counting for the two races and thus not allowing for a split vote had been discussed.

² The number of FPTP seats was increased to meet the demand from the Madheses to have more constituencies in Terai and the later increase in the List PR seats was made to meet the Maoist demand for a more proportional election.

Before 8 November 2006 when the mixed system was defined in the six-point agreement, a number of systems were discussed among parties and in the civil society. It was clear that an element of proportionality would be built into the system of representation, moving Nepal away from the Westminster model with single-member constituencies used during the elections in 1991, 1994 and 1999. There was, however, a widespread confusion about the term “proportional system”. Some understood it the common way as a list based system where parties won seats according to their number of votes, but many, in particular from the NGOs, used it for a system where all groups of the society should be represented in accordance with their proportional strength in the population. The strong call for a proportional representation often referred to the latter interpretation rather than the first.

In the discussions in 2006, for example in seminars organised by the Norwegian Embassy for a network of politicians and stakeholders at large, a number of systems were discussed where representation of groups of the population could be combined with various forms of systems of political representation. Some interest groups went far in demanding very detailed representation from each of the 100 groups represented in the 2001 census and as well as parity between men and women within each group, whereas others were satisfied with quotas for broader definitions of previously politically marginalised groups only.

When the six-point agreement defined a mixed system of representation, the discussion concentrated on the choice between a parallel system and a fully mixed system (MMP). UML was in particular in favour of MMP, and NC of the parallel system, whereas the Maoists were more ambivalent but very clear on the demand for two ballots with the possibility for voters to cast a split vote. A compromise was struck on 21 February 2007, after an intensive public debate, agreeing on the parallel system with two ballots. When the elections were postponed from June to December 2007, the Maoists came out with a demand for a fully proportional system. This was also supported by Madhesi groups. The compromise made in December 2007 raised the number of seats elected by a proportional system from 240 to 335, and the elections were set to April 2008.

The six-point agreement of November 2006 also stated that “while appointing the candidates, the political parties should ensure proportional representation of oppressed groups, region, Madhesi, Women, Dalit and other groups”. The term proportional here meant “in accordance with their share of the population”, which for example would mean that there should be 50% female candidates. At this point in time it was unclear if the term “other groups” meant all others or only other *marginalised* groups. When the interim constitution also defined that the List PR part should maintain proportional representation among the candidates from Women, Madhesi, Dalits, Oppressed communities/indigenous groups (Janajatis), Backward regions and Others it was still not clear if the requirements were on a minimum representation of marginalised groups or if it meant a segmentation of all people into groups with proportional representation. The latter would mean that even privileged groups had a quota and that in turn would mean that the quotas for the marginalised groups would not only be minimum quotas, but also maximum quotas. Subsequent developments made it clear that key players in the negotiations had that interpretation in mind all the time, even though some NGOs, women’s groups etc saw it differently.

In the early discussions many politicians were of the opinion that the FPTP race would be won primarily by the traditional groups (such as Bahun, Chhetri, etc) and therefore the list PR race could be used to offer affirmative actions to marginalised groups. With that logic, one would believe that the proportional representation of marginalised groups on the list race would translate into minimum requirements for such groups only, and not to exact quotas for all groups, including the Bahun and Chhetris.

However, when the draft law was submitted to the parliament, the parties changed it from a minimum protection of marginalised groups to a system of exact quotas for all groups, and with a 50% requirement for both men and women on the lists. One effect of this system was that even women's parties would be obliged to have men on the list. Parties representing marginalised groups such as Dalits or Janajatis could, by an exception rule, have candidates of their groups only, provided their lists did not have more than 100 candidates (originally any list shorter than 20% of the total number of List PR seats, later changed to 30%).

3. The adopted electoral system

3.1 System description

The system described here is the one used for the 10 April 2008 elections. Had the elections happened as planned in 2007 some details would have been different.

The system of representation is defined at three levels.

I. The Interim Constitution

According to the Interim Constitution (as amended on 28 December 2007) Article 63 the Constituent Assembly shall have the following composition:

- a) 240 members elected on the basis of First Past the Post (FPTP) from single member constituencies;
- b) 335 members elected on the basis of a party list based proportional electoral system (List PR) considering the whole country as one single constituency.
- c) 26 members nominated by the Interim Council of Ministers on the basis of consensus from among the distinguished persons and persons from ethnic and indigenous groups who fail to be represented under a) and b) and who have made significant contribution to national life.

The mixed system composed of the two races a) and b) is a parallel system, which means that there is no connection between the two races in terms of distribution of seats under the List PR race.

It is then stated that for the FPTP election the principle of inclusiveness should be kept in mind. For the List PR race the requirement is more specific: "the political parties shall ensure the proportional representation of women, Dalits, oppressed communities/indigenous groups, backward regions, Madhesis and other groups".

In addition a minimum of one-third of each party's candidates for both races has to be women.

II. The election law

The law defined the List Proportional system to be a closed list system. This meant that the voters would only cast a vote for the party, and would not be able to influence the choice of candidates within the list.

The law also translated the term “proportional representation of women, Dalits”, etc into numbers. Each list had to have the following representation according to Schedule 1 to the law (in the following we will use the term Janajatis for “oppressed communities/indigenous groups”, which in the law includes all Janajatis, not only the marginalised ones):

SN	Group to be represented		Percentage of candidates
	Women		50%
1.	Madhesi	Women	15.6%
		Men	15.6%
2.	Dalit	Women	6.5%
		Men	6.5%
3.	Janajatis	Women	18.9%
		Men	18.9%
4.	Backward region ³	Women	2%
		Men	2%
5.	Others ⁴	Women	15.1%
		Men	15.1%

The law further stated (Article 7, 3) that “[w]hile nominating candidates from Madhesi, the closed list of candidates must be prepared in such a way that it ensures proportional representation of Dalits, Janajatis and other groups on the basis of the per cent of population.” The law did not give the percentages, and the interpretation by key parliamentarians was that the EC should not enforce this rule. The same paragraph also stated that: “While enlisting the candidates pursuant to this Section, the Political Parties must pay proper attention to the representation of the oppressed group, poor farmers, and labourers including disabled.” This paragraph was also not enforced.

The quota rules – except for the one on women - were waived (Article 7 (14)) for lists shorter than 30% of the total number to be elected by the List PR system, which meant that lists with up to and including 100 candidates, did not have to comply with the quotas.

The law also regulated the way the seats won in the List PR system should be filled. Instead of filling the seats from the top of the candidate list which is the normal procedure in closed list systems, the parties were allowed to fill the seats after the

³ "Backward region" means Achaham, Kalikot, Jajarkot, Jumla, Dolpa, Bajahang, Bajura, Mugu and Humla Districts.

⁴ "Other" means the group not clearly mentioned in this Schedule.

election from anywhere on the list. However, when doing so they would have to comply with the same quota rules as when setting up the list, with ten percent flexibility in both directions⁵. This requirement on the selection of candidates by the parties was a very important improvement introduced in the law which was not explicitly stated in the Interim Constitution, but it was clearly in its spirit and it followed its general intention of inclusiveness in the restructured state.

The exception for short lists was also applied for the selection process.

III. The Procedures for the Nomination and Selection of Candidates in Proportional Election Procedures for the, 2064 (2008)

Schedule 2 of the procedures repeats the law's figures with a slightly more precise definition of "Others":

SN	Group to be represented	Percentage of candidates
1.	Madhesi	31.2%
2.	Dalit	13.0%
3.	Janajatis	37.8%
4.	Backward region	4.0%
5.	Others	30.2%

Note:

1. "Backward Regions" means Achaham, Kalikot, Jajarkot, Jumla, Dolpa, Bajhang, Bajura, Mugu and Humla districts.
2. "Others" means communities or groups which are not included in this Schedule as Madhesi, Dalit and Janajatis.
3. Percentage of women candidates should be 50.

The procedures also stated that for the short lists (up to 100 candidates) the selection of winning candidates should as much as possible follow the profile of the candidate list, that is, the relative proportion of winning candidates from each group should mirror that in the nomination list. The intention was to make the inclusiveness predictable for the voters. Since this rule was not included in the law, it could not be strictly enforced.

The requirement of the Interim Constitution and the law that at least at least one-third of a party's candidates had to be female was further implemented in the procedures which allowed parties to add to their PR lists women in order to fulfil this requirement. If the other quotas would not be met after such an addition, that was acceptable as long as the party had met the quotas before adding women. Parties were also not required to adjust their nominations if, as a result of disqualifications after the objection period, their list was no longer fully compliant with each quota.

3.2 The implementation

⁵ Which for example meant that a party winning 100 seats could select between 45 and 55 women to fill the seats.

The system was successfully implemented as described above. The biggest challenge to the voters was to understand the significance of two ballots and two races. The number of invalid votes reached 5.2% in the FPTP race. One reason for void votes was that voters put more than one mark on the same ballot, which in turn might have been because they knew they were to give two votes and were unaware that they would be given a second ballot for the other race. The FPTP ballot was given before the List PR ballot, and the rate of invalid votes dropped to 3.7% for the List PR ballot.

The challenge for the parties was clearly to understand and to adhere to the complex quota rules for the candidate lists. In particular the nomination was demanding for the parties which decided to file long lists. However, with assistance by the EC administration and software made for helping the parties, those wanting to file lists managed to meet the quotas in the end.

The biggest challenge in understanding the quota rules was that the quotas did not add up to 100%, but to 116.2%. 4% was because of the overlap between the backward regions and the rest and 12.2% was because of an overlap between the Madhesi group and the two groups Dalits and Janajatis. The latter overlap came directly from the regulations in the law, but it represented a challenge for the understanding by the parties. However, the parties did their utmost to implement the rules in good faith and they were able to meet the criteria both for the candidate lists and for the results.

In the end eleven parties filed long lists (101 candidates or more) and therefore had to meet the quota requirements. These parties won 277 seats out of the total of 335. This in turn resulted in the following composition of the CA:

	FPTP		List PR		Total		PR Quota
	Identities	Percent	Identities	Percent	Identities	Percent	Percent
Women	30	12.5	161	48.1	191	33.2	50.0
Madhesi	74	30.8	122	36.4	196	34.1	31.2
Dalit	7	2.9	40	11.9	47	8.2	13.0
Janajatis	77	32.1	115	34.3	192	33.4	37.8
Backward region	12 ⁶	5.0	10	3.0	22	3.8	4.0
Others	101	42.1	95	28.4	196	34.1	30.2

The identities add up to more than the number of seats since a person may have more than one identity, just as the quotas add up to more than 100%.

Madhesis and Janajatis got a fairly good representation in the FPTP race. The Madhesis were overrepresented in the List PR race, mainly due to the waiver of quotas for short lists (see Appendix C). Women and Dalits came out with a low representation (even though better than in any previous elections) in FPTP and their shares were considerably improved by the quotas in the List PR race.

⁶ Elected from the districts, but not necessarily registered to vote in the districts.

The appointment of the 26 members of the CA by the government is still to be done. NEFIN has claimed that there are 29 out of the 59 Janajati groups which have not received a seat in the election, and they refer to the agreement with the governing parties to request that the 26 members are used to compensate for this. Most of the groups are small and they add up to less than 1% of the population.

4. How the parallel system worked out

4.1 The overall system

The parallel system is often a result of a compromise between those favouring single member constituencies with FPTP and those favouring a proportional system. That was also the case in Nepal. Systems of representation are not only a matter of principles for the rule of the game, but also a matter for tactical considerations by parties on which system will favour them the most. Parties often tend to believe that the system which has worked for them in the past will do it again. This is obviously not the case when there are big changes to the voters' choice, and some parties probably got a surprise after the April 2008 elections. The results are given in more detail in Appendix A. The following gives a summary, where only results for parties winning seats are included:

Party	List PR				FPTP		Total	
	Votes	Percent	Seats	Percent	Seats	Percent	Seats	Percent
Communist Party of Nepal (Maoists)	3,144,204	30.0	100	29.9	120	50.0	220	38.3
Nepali Congress	2,269,883	21.7	73	21.8	37	15.4	110	19.1
Nepal Communist Party (UML)	2,183,370	20.9	70	20.9	33	13.8	103	17.9
Madhesi People's Rights Forum, Nepal (MJF)	678,327	6.5	22	6.6	30	12.5	52	9.0
Tarai Madhes Loktantrik Party	338,930	3.2	11	3.3	9	3.8	20	3.5
Rastriya Prajatantra Party	263,431	2.5	8	2.4		0.0	8	1.4
Communist Party of Nepal (Marxist-Leninist)	243,545	2.3	8	2.4		0.0	8	1.4
Sadbhavana Party	167,517	1.6	5	1.5	4	1.7	9	1.6
Janamorcha Nepal	164,381	1.6	5	1.5	2	0.8	7	1.2
Rastriya Janashakti Party	102,147	1.0	3	0.9		0.0	3	0.5
Communist Party of Nepal (United)	154,968	1.5	5	1.5		0.0	5	0.9
Rastriya Prajatantra Party Nepal	110,519	1.1	4	1.2		0.0	4	0.7
Rastriya Janamorcha	106,224	1.0	3	0.9	1	0.4	4	0.7
Other parties/independents winning seats	544,184	5.2	18	5.4	4	1.7	22	3.8
Total for parties winning seats	10,471,630	100.0	335	100.0	240	100.0	575	100.0

The Maoists had an advantage of the FPTP system, whereas Nepali Congress and UML did worse under that system than under the proportional one. MJF and TMLP also did better in FPTP than in the proportional one. Since the number of proportional seats was bigger than the one for FPTP the deviation from a proportional result in total is not enormous, even though it is significant.

4.2 The distribution method and threshold

The law prescribed the Sainte-Laguë distribution method for transferring votes under the List PR system to seats. The reason was that this is a division method which is robust, has few side effects (like the Alabama paradox) and it gives a close to proportional result. The variant used was the so-called modified Sainte-Laguë which makes it a little more difficult for parties to win the first seat. This is done by dividing the number of votes by 1.4 instead of 1 when calculating the first quotient and the result is that there will normally be fewer one-seat parties in the parliament.

The distribution method worked as expected and produced an intuitive result. Appendix E shows how the result would have been with other well known distribution methods. Without imposing a threshold in addition to what is implied in the methods, the alternative methods would have given seats to a few more small parties. This would have reduced the “cost” of the first seat to even below the 21,916 votes which were needed using the modified Sainte-Laguë. The average number of votes per seat using the modified Sainte-Laguë was 31,259.

5. How the quota system worked out

The complex quota system did clearly produce a more inclusive CA than what would have been the case without it. On the other hand the system made the nomination and selection process very complicated for the parties, and by allocating quotas to all groups, it produced restrictions not really needed to create inclusiveness.

There were also rules which worked against inclusiveness. As it was, 277 seats were won by long-list parties, and some of the short lists represented assumed marginalised groups, so the non-inclusive effect of these rules turned out to be limited. It is, however, clear that the short lists contributed to a less diverse overall result than the long lists. Appendix C gives the full details, but in sum, of the 58 seats won by short lists, the Madhesis came out best with 72.4%, while the Dalits got only 8.6%, the Janajatis 22.4% and Others had 12.1%.

The complications with implementing the quotas, the risks of having more short lists next time and the difficulties for parties representing marginalised groups all point in the direction of simplification by changing to a system of affirmative action for marginalised groups rather than a split into quotas even for the already privileged groups.

The group definitions themselves should also be assessed. It is not all the groups within the broad categories of Madhesis and Janajatis which have been excluded from political life in the past or which needed special measures during the 2008 elections. Many such groups were already adequately represented or even overrepresented in the past and the wide definition of groups did not help the underprivileged to get seats. The two groups which would otherwise have been excluded were women and Dalits. The lower castes within the Madhesi group and the marginalised Janajatis were helped only to a limited degree.

The one-third requirement for women running in the two races combined was implemented by allowing parties to add women to the lists beyond the 50% required. This was a practical solution which did not really add to the women’s possibility to be elected. If in future one would retain FPTP elections, requirements on that part of the

elections should be implemented in the constituency race only (rather than by allowing women candidates to be added in the other race). This would mean that the returning officers would not be able to approve candidates before the EC has made an overall review of the parties' nationwide compliance with quota requirements.

One complication with any ethnically or caste based quota system is to get an accurate identification of the candidates. A person's own feeling of identity needs not coincide with the anthropological classification and by intermarriages the identity may not be unique. In such cases it is generally accepted that the person's subjective identity (within reasons) counts. Another problem is that some subgroups do not have a unique classification within the broader groups used in the law. For example the Tharus were classified as Madhesi Janajatis when the quotas were made, but it is far from agreed whether this Janajati group should belong to the Madhesis or not. The last problem is that mistakes can easily be made. It is practically impossible to review in detail the classification made by the parties the 6,000 candidates on the lists.

UNMIN made a review of the classification of all the PR candidates and found more than 20 obvious mistakes (where for examples Gurungs and Tamangs were classified as Others instead of Janajatis). This did not distort the overall inclusiveness of the process.

As a general conclusion of the quota system one may summarize:

1. The system did produce an inclusive CA far beyond what a system without quotas would have achieved.
2. Women and Dalits were the groups which were still furthest away from a proportional representation, even though they made a good leap forward in representation due to the quota system.
3. Madhesis and Janajatis got a fair share of the seats even in the FPTP race where no quotas were applied.
4. The marginalised groups within the Madhesis and the Janajatis did not get proper representation, because these groups included both privileged and underprivileged groups.
5. The exception for short lists worked in favour of the Madhesis. If the system were to be repeated more parties might utilise this possibility to avoid inclusiveness and the outcome would be more uncertain.
6. The complexity of the system represented difficulties for the parties beyond what was needed for including otherwise excluded groups.
7. The system will be difficult to repeat in the current form because of the possibilities for parties to manipulate the system. In the CA elections the system was implemented in good faith, but that might not be the case in the future (for example in using more short lists, doubtful group identification, etc).

6. Some technical issues

In a mixed system one may allow a person to run in both races. In Nepal one decided not to allow for that. On the other hand the earlier practise of allowing a candidate to run in two FPTP constituencies was continued. If such a candidate wins in both constituencies he or she will have to choose one and a by-election is to be held in the other.

There are two justifications for this practise. One is the legitimate need for a party to protect their leaders. By giving them two chances they are able to ensure their main figures representation, even if a very local electorate should not vote for them in. The other reason is less legitimate. By letting a very popular figure run in one safe and one marginal constituency one can secure a constituency which would otherwise be lost, without taking a risk that the person is not elected. If elected in two constituencies the person would choose the marginal one and the by-election would be held where the party would anyway win the seat.

A much better solution would be to secure the person by letting him or her run in one constituency only *and* on the list. If the constituency is won the candidate will have to fill that seat and the candidate is struck from the list. No by-election is therefore needed. Even in this case one may use a popular person to win a marginal constituency without risking that the person to lose a seat. However, it would also make it attractive for party leaders to face the electorate and it does not have the practical implications of by-elections.

An unusual feature with the FPTP part of the election was that the names of the candidates were not shown on the ballot; only the party name and symbol appeared. If a mixed system is maintained one should clearly add the candidate name to the ballot since the whole point with keeping the single member constituencies would be to hold the elected members accountable to the electorate. Many people cannot read but that should not prevent those who can to see the names on the ballot.

7. Criteria for future systems

Any discussions on electoral systems should start by identifying the qualities of a system which are important for the country. Instead, it is unfortunately common for parties to make rather short-sighted tactical considerations and politicians often believe that whatever system brought them to power last time will do it again. In reality, the political landscape changes over time. The rules of the game, however, should be more constant. Taking a step back and making a more objective assessment of alternatives would therefore be recommended.

The following is taken from Blanc, Hylland and Vollan: “State Structure and Electoral Systems in Post-Conflict Situations”:

“Even though a large variety of systems are being used in established democracies, some general criteria for good electoral systems can be defined. The weight put on each of them, however, would vary, among experts as well as among political decision makers.

We list some criteria that electoral systems may meet, and discuss briefly some aspects of each. Most of the criteria apply to elections generally, not just to elections in post-conflict situations, but some of them are particularly important in such situations.

Create representative assemblies. In simple terms this criterion means that a party running in an election shall get a number of seats in the assembly that corresponds approximately to its proportional share of the vote. This is often regarded as the overriding criterion for a fair electoral system, and it is the most important justification for proportional elections. An elected assembly should reflect the political composition of the electorate, as well as other aspects such as geography, gender etc. The decisions made by the assembly should be representative of the

opinions of the electorate.

Support accountability of the elected members. Another important aspect of elections is the relationship between the electorate and the elected member of the assembly. Elections in single-member constituencies are often justified by the need for strong accountability, since a comparatively small electorate will elect its own member of parliament and maintain direct contact with the elected member.

Support stable governments. It has been argued that a fully proportional electoral system may result in an assembly split into a large number of parties, which in turn will lead to unstable coalition governments. The empirical data does not necessarily support this claim, at least not in countries with some kind of threshold for representation; see the discussion of thresholds in Section 10.1.

Give equal weight to each voter. This requirement can be interpreted in various ways when applied to different electoral systems. The most general formulation is that voters shall not be discriminated against on account of ethnicity, geography, gender and so on, except for what may follow from valid affirmative actions. The criterion is discussed further in Section 7.5. In that section, a formal and technical version of the criterion, called "anonymity", is also introduced.

Resist tactical voting behavior. A system should support an immediate link between the voters' primary preferences and the result. Tactical voting means that the voters do not vote according to their primary preferences. Instead, they vote according to, for example, their secondary preferences, because they believe they can thereby get an advantage.

Be simple for the voters. Systems can be designed to meet many requirements, but could end up being extremely complicated for the voters, both in the sense that it is difficult to cast a valid and effective vote, and in the sense that it is not easy to understand how the system works.

Be simple for the election administration. Systems can be very complicated for those implementing them. However, what may seem difficult to implement, need not be complicated from a voter's point of view. A possible example is the single transferable vote (see Section 10.3).

Be generally accepted by the parties and the public. Degree of acceptance should be taken into account when choosing a system. This is particularly important in post-conflict elections, because of the level of mistrust, frequently occurring disorder in election administrations, and the immaturity of the party system. One should not, however, refrain from proposing a system one genuinely regards as good, simply because of fear that it will not be accepted.

Promote conciliation among different groups. In post-conflict situations this is an important criterion, and it is the main focus of this report.

Promote cross-community parties. This is related to the previous item, but is not exactly identical as a criterion for electoral systems. Community may refer to ethnic, linguistic, religious or sectarian groups as well as geographical areas[].

Promote dialogue and compromise. The electoral system should in general support dialogue and conciliation in post-conflict situations. Therefore, whenever reasonable, the system should promote compromise candidates instead of extremist ones. However, there are clear limits to what an electoral system can and should do in this respect. If the voters really support extremist candidates, the system should not prevent these candidates from being elected.

Be robust against changes. This may be a fairly technical issue, but a system should be designed in such a way that small changes in some aspect of the system, such as constituency boundaries, will not have a drastic effect on the outcome of the elections. In a system based on single-member constituencies, the drawing of boundaries can significantly affect the outcome, even if it is

required that all constituencies be of equal size. If the boundaries are determined through a political process, there is a danger that the present majority will try to perpetuate its power by carefully taking account of how its support is distributed when boundaries are drawn, so-called "gerrymandering".

Respond logically to changing support. Increased support for a party should normally lead to increased representation, with as few unforeseen and illogical side effects as possible.

Be sustainable. This means that even though there may be particular needs in a transitional period, the electoral system should be adapted to a normalized situation and should also support the process of normalization. One should keep in mind that systems which are adopted after a conflict, even if they are tailor-made to the current situation, will create precedent, that is, they will have a tendency to perpetuate themselves. This is particularly true if the international community has been instrumental in establishing the system."

In Nepal inclusiveness has been a major concern when electoral systems have been discussed. Inclusiveness means to include all groups and strata of the society, and specifically to ensure otherwise excluded groups representation in decision-making bodies. The system should therefore produce representative results not only along the political dimension but even in terms of gender, caste, ethnic and linguistic group, etc.

Securing representation of excluded groups would mean that the groups need to be identified and given special treatment. This must in turn be balanced against the need for integration and for building down social barriers which may serve to segment social divisions in the country.

Accountability will mean that there is a close relationship between the voter and the elected. Single-member constituencies are generally seen to promote this, at least if the elected is maintaining a close dialogue with the constituency throughout the term in office. A member of parliament, who has not been efficient in carrying out his or her duties will not be re-elected. On the other hand issues of corruption and intimidation may be the other side of a too close relationship to a small constituency. Nevertheless geographical representation is an important feature of system in a diverse country like Nepal and should be maintained in one form or another, but not necessarily within single-member constituencies.

8. Some alternative future systems

8.1 Qualities of a future system

From the experience with the system used for the CA elections and an analysis of more fundamental needs for Nepal one may list some qualities of a future system:

1. The system should have a strong element or proportionality in the representation of political parties;
2. The system needs to have geographical representation;
3. The system needs to be inclusive, and in particular provide for representation of *otherwise excluded groups*;
4. The system should be simple for voters;
5. The system should be relatively simple for parties and administrators;
6. The system should be robust against manipulation and fraud;
7. Those elected should be held accountable to the electorate;
8. The system should promote integration and conciliation;

9. The system should be transparent and predictable;
10. The system should be generally accepted by the political actors and the public at large.

In the following I will discuss two groups of systems and assess them against these qualities. The first group is the mixed systems and the second is fully proportional list-based systems (List PR). There are other systems which could work as well, but in the Nepali context these seem to be the most obvious ones. In addition, the experience from the CA elections will be useful if one of these systems is chosen.

8.2 *A new system for inclusiveness*

In the FPTP race for the CA the Madhesis and Janajatis did quite well. Even in previous elections the privileged sub-groups within these groups have been well represented. The problem is still that subgroups within the groups have not been properly identified and represented. The only clearly marginalised groups which have now been helped by the system (in addition to women) are the Dalits. Marginalised Janajatis, underprivileged castes, in particular within the Madhesi community, and small minority religious groups have not been promoted by the system.

The division into groups covering the whole population has not worked in favour of integration and conciliation between groups. On the contrary, it has made caste and ethnicity a more significant element of the political system. If the goal is to get rid of discrimination and make all people equal with equal values and opportunities, the ideal for the future would be that no quotas would be necessary. However, this ideal will take time to realise and affirmative actions will be needed for a period of time in order of getting there.

A division of all candidates into groups will be increasingly difficult to maintain over time. There will be more mixed marriages, and there will be people who insist on having no other identity than Nepali. There will also be more challenges to the parties' identification of candidates and loopholes may be exploited in an increasing manner. The implementation in good faith may be difficult to maintain in the future.

There is also a clear need for simplification of the quota system. The parties managed to use it during the CA elections where the political will of getting it right was very strong. For future elections tactical behaviour and manipulation may come more apparent.

One should therefore move from a system based on segregation to a system of inclusion and affirmative action. That would mean that the legislation would have to identify such castes, Janajati subgroups and possibly religious minorities which would need affirmative actions in order to be represented. The rest would be up to the voters' choice.

One would have to accept that the balance between groups which do not need such affirmative action will not always be maintained because it will depend on the voters' choice how the balance will vary over time. However, all groups will have a possibility to maintain their fair share of representation as long as they are supported by their own voters. The following discussion on quotas relates both to candidates lists and to the results of the elections.

The simplest way of implementing affirmative action would be to define a list of groups (castes and Janajati groups) which need extra protection (similar to the Indian scheduled castes and tribes) and define a quota for all of them combined within the electoral system. The group will contain a high level of diversity but the diversity may be covered by implementing the quotas in geographical electoral constituencies. That would secure the diversity within the list of scheduled castes and tribes. If the quotas are defined at a national level (as in the 2008 elections) one may have to split the list of marginalised castes and people into groups of common interest, but not down to each caste or Janajati group. Such a subdivision could be: Madhesi Dalits, Madhesi underprivileged castes, Other Dalits, Mountain Janajatis, Other Janajatis, etc. Under this arrangement all Madhesi castes and all Janajati groups would *not* occur on the list subject to affirmative actions, only the marginalised ones.

One should not require representation from each of the castes and Janajati group on the list. In a representative democracy the principle is that there are representatives covering the interests of the groups, and that the members of the groups are able to elect their representatives. If all of for example 30 or 40 groups should have their own representative, the number of voters behind each one will be very low and the complexity will rise again. On the other hand, certain identified groups may be represented beyond their proportional share in the population, because they have some vital interests which need extra protection (for example a traditional nomad life versus urban development).

As for the Madhesis as a group the geographical division will give them good representation at large. In addition their parties will secure their representation as long as the voters continue vote for their parties.

If one moves to a system of affirmative action, the quotas should be minimum quotas, not exact quotas. Parties basing their support on the interests of marginalised groups could then run with only or almost only candidates of that group, and women's parties could run with women only.

A single schedule of marginalised groups (or a division into few groups) would make the nomination much simpler for the parties. It would therefore not be any reason for not making a candidate list with names in a priority sequence. There would have to be rules for prominent placement of the marginalised candidates (including women) on the list. This would enhance the transparency and predictability of the electoral process and it would also strengthen the accountability of the candidates since the voters would know which candidates will fill the seats the party may win.

In addition to having rules for prominent placement on the list one may have additional rules securing the result for the marginalised groups for the parliament at large which may work across party lines.

8.3 *Mixed systems*

The mixed system has two variants: the parallel system which was used for the CA elections and the mixed member proportional (MMP) system. MMP is similar to the parallel system by having two races, one FPTP and one List PR, but the calculation of results is different. The MMP is a fully (not only part) proportional system where the

results of the List PR vote is used to distribute all seats in the parliament, not only the 335 out of the 575. The proportional part is therefore used to compensate for any deviation from proportionality in the FPTP election. Applied on the results from the CA elections MMP would have given the following result:

Party	List PR – on the total membership of the parliament				FPTP		Compensation from the List PR race I - II
	I		II		II		
	Votes	Percent	Seats ⁷	Percent	Seats	Percent	Seats
Communist Party of Nepal (Maoists)	3,144,204	30.0	169	29.7	120	50.0	49
Nepali Congress	2,269,883	21.7	123	21.4	37	15.4	86
Nepal Communist Party (UML)	2,183,370	20.9	118	20.5	33	13.8	85
Madhesi People's Rights Forum, Nepal (MJF)	678,327	6.5	37	6.4	30	12.5	7
Tarai Madhes Loktantrik Party	338,930	3.2	18	3.1	9	3.8	9
Rastriya Prajatantra Party	263,431	2.5	15	2.6		0.0	15
Communist Party of Nepal (Marxist-Leninist)	243,545	2.3	13	2.3		0.0	13
Sadbhavana Party	167,517	1.6	9	1.6	4	1.7	5
Janamorcha Nepal	164,381	1.6	9	1.6	2	0.8	7
Rastriya Janashakti Party	102,147	1.0	8	1.4		0.0	8
Communist Party of Nepal (United)	154,968	1.5	6	1.0		0.0	6
Rastriya Prajatantra Party Nepal	110,519	1.1	6	1.0		0.0	6
Rastriya Janamorcha	106,224	1.0	6	1.0	1	0.4	5
Other parties/independents winning seats	544,184	5.2	38	6.3	4	1.7	34
Total for parties winning seats	10,471,630	100.0	575	100.0	240	100.0	575

If nothing else changed and no threshold was introduced 31 parties (as opposed to 25 with the parallel system) would have won seats under MMP. The distribution is close to the fully proportional representation.

Under both types of mixed systems quota rules could be introduced on the List PR side of the system. It is much more difficult to apply quotas to the FPTP part. Since the List PR election is performed at national level the quotas based upon affirmative actions might have to be divided into subgroups as indicated in Section 8.2 above.

In a mixed system it is possible to apply the quota rules on the full result for each party. If for example there is an overall requirement to return at least one-third women from the FPTP and List PR race combined a party winning 10 FPTP seats and 20 List PR seats would have to return 10 women. If only 1 out of the elected candidates from the FPTP race was a woman, 9 out of the 20 from the lists would have to be women.

8.4 Fully proportional list based systems

⁷ The distribution is done under by taking the two seats won by independent candidates into account.

In a fully proportional system there are a number of advantages in terms of simplification for voters and parties and there are more possibilities for combining quotas in a simple manner. It would be recommended to divide the country into a number of multi-member constituencies. Countries with Nepal's complexity and diversity should have an element of geographical representation in order of creating a representative parliament. In particular with the differences in way of life, prosperity, culture etc, between the plains, hills and mountains, between east middle and west, and between local communities such representation is important.

By using multi-member constituencies the proportionality between the parties may suffer, but good remedies may be introduced in terms of nationwide compensatory seats in case such proportionality is important. It is, however, no reason to believe that the proportionality would be worse than for the last election even without compensatory seats, except that it would be more difficult for the smallest parties to win seats.

In Appendix D a List PR system with 14 multi-member constituencies and a 300 seat parliament is described in more detail.

With the PR system in constituencies the large geographically concentrated groups are already covered. The Madhesis will dominate in southern constituencies.

Dalits and underprivileged Janajatis and castes should be protected in form of a list of groups which need affirmative actions. The minimum quotas could be worked out for each constituency, and the parties would be required to provide a minimum number both on the list and on the result. Because of the geographical subdivision a further division of groups may not be needed. The underprivileged castes and Dalits in Tarai will tend to be Madhesis, and the ones in the mountainous areas will be taken from the groups there. This will simplify the system tremendously.

Since the quotas are minimums and are applied to the whole election, not only part of it, it is not obvious that the quotas should reflect the proportional share of the population (even though it might). If the quotas for women are set to at least 40% and for Dalits at least 10 % both these groups would do better than in the 2008 election. Some sub-groups could be identified which would need to be even overrepresented. That could be implemented at national level if there are compensatory seats or in the relevant constituencies.

With a proportional system in constituencies it is important that the candidate lists are made public so that the voters can also take the names on the list into account when making their choice. If the lists are ranked the accountability is even stronger. A further step to strengthen the accountability would be to introduce open lists instead of the closed lists. This would mean that the voters are given an opportunity to vote for individual candidates on the list and thereby influence which candidates are to fill the seats a party would win. Such arrangements will make the ballots more complicated, but may still be a good option in order of giving the voters more choice. With open lists quotas on the result must be retained in order of securing inclusiveness, even though that will restrict the choice given to the voters by the open lists.

Appendix A. The 2008 election results

The overall results of the 2008 CA elections were:

Ball ot seq. no.	Party name	FPTP		List PR		Total	
		Seats	Percent	Seats	Percent	Seats	Percent
1	Nepal Communist Party (UML)	33	13.75	70	20.90	103	17.91
2	Nepali Congress	37	15.42	73	21.79	110	19.13
3	Rastriya Janashakti Party		0.00	3	0.90	3	0.52
4	Rastriya Prajatantra Party		0.00	8	2.39	8	1.39
5	Janamorcha Nepal	2	0.83	5	1.49	7	1.22
6	Communist Party of Nepal (Maoists)	120	50.00	100	29.85	220	38.26
7	Nepal Workers and Peasants Party	2	0.83	2	0.60	4	0.70
8	Samajwadi Pra. Janata Party		0.00	1	0.30	1	0.17
9	Rastriya Janamorcha	1	0.42	3	0.90	4	0.70
12	Rastriya Janamukti Party		0.00	2	0.60	2	0.35
13	Rastriya Prajatantra Party Nepal		0.00	4	1.19	4	0.70
14	Communist Party of Nepal (Unified)		0.00	2	0.60	2	0.35
15	Communist Party of Nepal (Marxist-Leninist)		0.00	8	2.39	8	1.39
17	Communist Party of Nepal (United)		0.00	5	1.49	5	0.87
19	Dalit Janajati Party		0.00	1	0.30	1	0.17
20	Nepal Sadhvawana Party (Anandidevi)		0.00	2	0.60	2	0.35
22	Madhesi People's Rights Forum, Nepal	30	12.50	22	6.57	52	9.04
33	Nepali Janata Dal		0.00	2	0.60	2	0.35
43	Sadbhavana Party	4	1.67	5	1.49	9	1.57
44	Tarai Madhes Loktantrik Party	9	3.75	11	3.28	20	3.48
47	Nepal Pariwar Dal		0.00	1	0.30	1	0.17
48	Federal Democratic National Forum		0.00	2	0.60	2	0.35
49	Nepa Rastriya Party		0.00	1	0.30	1	0.17
50	Nepal Lokatantrik Samajbadi Dal		0.00	1	0.30	1	0.17
53	Chure Bhawar Rastriya Ekta Party Nepal		0.00	1	0.30	1	0.17
	Independent	2	0.83			2	0.35
		240	100	335	100	575	100

The details for the List PR election results are shown below.

Ballot seq. no.	Party name	Votes	Percent	Seats	Percent
1	Nepal Communist Party (UML)	2,183,370	20.85	70	20.90
2	Nepali Congress	2,269,883	21.68	73	21.79
3	Rastriya Janashakti Party	102,147	0.98	3	0.90
4	Rastriya Prajatantra Party	263,431	2.52	8	2.39
5	Janamorcha Nepal	164,381	1.57	5	1.49
6	Communist Party of Nepal (Maoists)	3,144,204	30.03	100	29.85
7	Nepal Workers and Peasants Party	74,089	0.71	2	0.60
8	Samajwadi Pra. Janata Party	35,752	0.34	1	0.30
9	Rastriya Janamorcha	106,224	1.01	3	0.90
12	Rastriya Janamukti Party	53,910	0.51	2	0.60
13	Rastriya Prajatantra Party Nepal	110,519	1.06	4	1.19
14	Communist Party of Nepal (Unified)	48,600	0.46	2	0.60
15	Communist Party of Nepal (Marxist-Leninist)	243,545	2.33	8	2.39
17	Communist Party of Nepal (United)	154,968	1.48	5	1.49
19	Dalit Janajati Party	40,348	0.39	1	0.30
20	Nepal Sadhvawana Party (Anandidevi)	55,671	0.53	2	0.60
22	Madhesi People's Rights Forum, Nepal	678,327	6.48	22	6.57
33	Nepali Janata Dal	48,990	0.47	2	0.60
43	Sadbhavana Party	167,517	1.60	5	1.49
44	Tarai Madhes Loktantrik Party	338,930	3.24	11	3.28
47	Nepal Pariwar Dal	23,512	0.22	1	0.30
48	Federal Democratic National Forum	71,958	0.69	2	0.60
49	Nepa Rastriya Party	37,757	0.36	1	0.30
50	Nepal Lokatantrik Samajbadi Dal	25,022	0.24	1	0.30
53	Chure Bhawar Rastriya Ekta Party Nepal	28,575	0.27	1	0.30
	Total winning parties	10,471,630	100	335	100
	Rest	267,448			
	Total	10,739,078			

Appendix B. Comparison between the List PR and the overall FPTP results

Party name	FPTP		List PR	
	Votes	Percent	Votes	Percent
Communist Party of Nepal (UML)	2,229,064	21.6	2,183,370	20.3
Nepali Congress	2,348,890	22.8	2,269,883	21.1
Rastriya Janashakti Party	79,925	0.8	102,147	1.0
Rastriya Prajatantra Party	310,214	3.0	263,431	2.5
Janamorcha Nepal	136,846	1.3	164,381	1.5
Communist Party of Nepal (Maoist)	3,145,519	30.5	3,144,204	29.3
Nepal Workers and Peasants Party	65,908	0.6	74,089	0.7
Samajbadi Pra Janata Party	13,246	0.1	35,752	0.3
Rastriya Janamorcha	93,578	0.9	106,224	1.0
Rastriya Janamukti Party	38,568	0.4	53,910	0.5
Rastriya Prajatantra Party Nepal	76,684	0.7	110,519	1.0
Communist Party of Nepal (Unified)	51,928	0.5	48,600	0.5
Communist Party of Nepal (Marxist Leninist)	168,196	1.6	243,545	2.3
Communist Party of Nepal (United)	39,100	0.4	154,968	1.4
Dalit Janajati Party	31,444	0.3	40,348	0.4
Nepal Sadbhavana Party (Anandidevi)	45,254	0.4	55,671	0.5
Madhesi People's Rights Forum	634,154	6.2	678,327	6.3
Nepali Janata Dal	17,162	0.2	48,990	0.5
Sadhvawana Party	174,086	1.7	167,517	1.6
Tarai Madhes Loktantrik Party	345,587	3.4	338,930	3.2
Nepal Pariwar Dal	0	0.0	23,512	0.2
Federal Democratic National Forum	36,060	0.3	71,958	0.7
Nepa Rastriya Party	11,352	0.1	37,757	0.4
Nepal Loktantrik Samajbadi Dal	10,432	0.1	25,022	0.2
Chure Bhawar Rastriya Ekata Party Nepal	18,908	0.2	28,575	0.3
Independent	123,619	1.2		
Other parties (not winning seats)	60,396	0.6	267,448	2.5
Total	10,306,120	100.0	10,739,078	100.0

Appendix C. The profile of the short lists.

Lists with 100 candidates or less did not have to meet the quota rules, other than for the gender balance. The table below shows how this exception came out compared to the quotas for the long lists.

Ball of Seq No	Party Name	Total	Women	Madhesi	Dalits	Janajatis	BR	Others
	Quotas for long lists		50	31.2	13	37.8	4	30.2
7	Nepal Workers and Peasants Party	2	1	0	0	1	1	1
12	Rastriya Janamukti Party	2	1	0	0	2	0	0
17	Communist Party of Nepal (United)	5	2	1	0	1	0	3
19	Dalit Janajati Party	1	0	0	1	0	0	0
20	Nepal Sadhvawana Party (Anandidevi)	2	1	2	0	0	0	0
22	Madhesi People's Rights Forum, Nepal	22	11	21	3	4	0	1
33	Nepali Janata Dal	2	1	2	0	0	0	0
43	Sadbhavana Party	5	2	5	0	1	0	0
44	Tarai Madhes Loktantrik Party	11	5	10	1	0	0	0
47	Nepal Pariwar Dal	1	0	0		0	0	1
48	Federal Democratic National Forum	2	1	0	0	2	0	0
49	Nepa Rastriya Party	1	0	0		1	0	0
50	Nepal Lokatantrik Samajbadi Dal	1	0	1		1	0	0
53	Chure Bhawar Rastriya Ekta Party Nepal	1	0	0		0	0	1
	Total seats	58	25	42	5	13	1	7
	Percent		43.1	72.4	8.6	22.4	1.7	12.1

Appendix D. A List PR system in multi-member constituencies.

1. Introduction

The following shows by use of an example how a multi-member constituency based system could be implemented in Nepal. In the example the zones are used, not because they would necessarily be recommended for election use, but they have a reasonable number (14) and size. One should keep in mind that constituencies do not have to coincide with administrative units. Alternative divisions are, however, absolutely possible to define. The example is based upon a parliament with 300 seats.

2. The two methods

With List PR systems one may have a one-tier or a two-tier system:

1. The country is divided in a number of multi member constituencies – e.g. the 14 Zones – and separate PR elections are held in each one. This would provide for the geographical representation. The end result will not be fully proportional at national level and in particular small parties may claim that their votes are wasted.
2. The election is carried out in constituencies but the results are calculated at two tiers. Only say 80% of the seats are distributed to the constituencies and those seats are allocated according to the results there. The remaining 20% are used as compensatory seats and distributed according to the aggregated national result. The result is proportional with a minimum of wasted votes and the geographical representation is still kept.

3. The constituencies

The 14 zones are used as examples here since they are already defined and have a reasonable size. The five regions would be too big to achieve the intended geographical representation, and the 75 districts would be too small to achieve a proportional result.

The table below shows the 300 seats distributed to the constituencies based upon the population according to 2001 census, using the Sainte-Laguë distribution formula. (Some of the tables given by the CBS have lower numbers for some districts, for example Kalikot. The numbers below are taken from a report from 2003 by CBS.)

With a proportional system there should be a minimum of seats in a constituency. In addition many countries would give an extra representation to most sparsely populated areas. The column to the right is calculated on basis that all constituencies should have at least 5 seats.

Zone		Population 2001	Number of seats	Number of seats with min 5 per const
No	Name			
1	Mechi	1307669	17	17
2	Kosi	2110664	28	27
3	Sagarmatha	1926143	25	25
4	Janakpur	2557004	33	33
5	Bagmati	3008487	39	39
6	Narayani	2466138	32	32
7	Gandaki	1487954	19	19
8	Dhawalagiri	556191	7	7
9	Lumbini	2526868	33	33
10	Rapti	1286806	17	17
11	Bheri	1417085	18	18
12	Karnali	309084	4	5
13	Seti	1330855	17	17
14	Mahakali	860475	11	11
Total		23151423	300	300

In some countries⁸ objective rules for over-representing sparsely populated districts have been worked into the legislation. Instead of using the population only as the basis for the distribution of seats they include the area of the constituencies as well. A so-called distribution number which combines the population with the area of each constituency is defined as follows:

$$D(i) = \text{number of citizens}(i) + \text{Factor} * \text{area in square kilometres}(i).$$

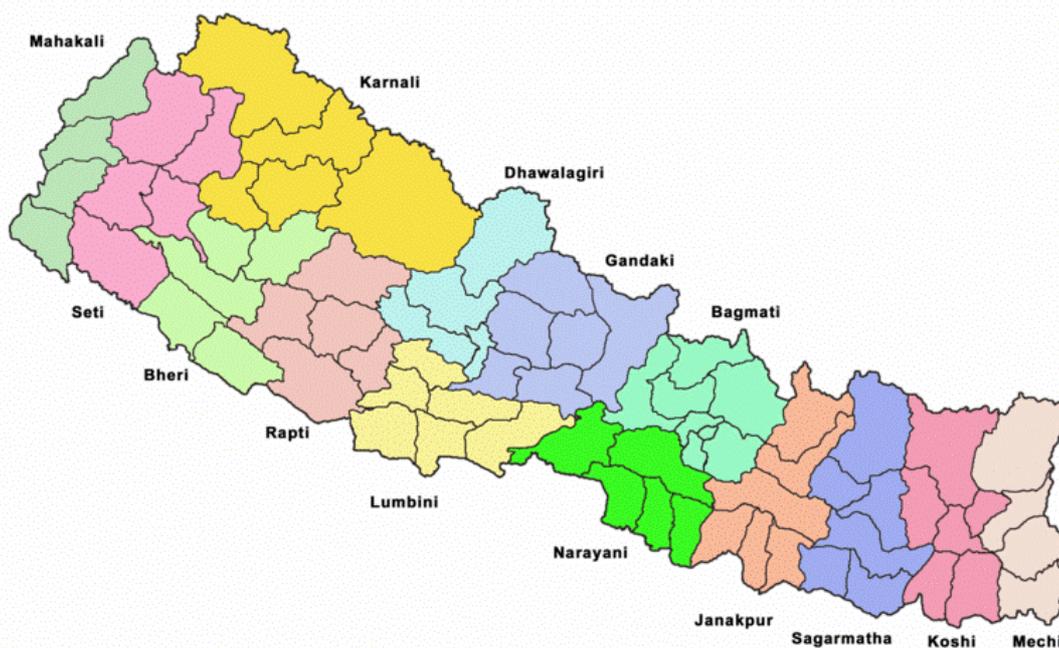
The Factor is based upon empirical data and adjusted to fit the tradition and common sense distribution in the country in order to give the intended over-representation of the less populated areas.

In Nepal the Factor could be between 10 and 20. The table below uses the Factor = 15 and should a potential seat distribution using the formula above, and the Sainte-Laguë formula:

⁸ Denmark and Norway.

Zone		Population 2001	Area Square kilometr es	The distributio n number based upon Factor = 15	Seats
No	Name				
1	Mechi	1307669	8196	1430609	17
2	Kosi	2110664	9667	2255669	27
3	Sagarmatha	1926143	10591	2085008	25
4	Janakpur	2557004	9669	2702039	32
5	Bagmati	3008487	9428	3149907	37
6	Narayani	2466138	8313	2590833	31
7	Gandaki	1487954	12275	1672079	20
8	Dhawalagiri	556191	8148	678411	8
9	Lumbini	2526868	8975	2661493	31
10	Rapti	1286806	10482	1444036	17
11	Bheri	1417085	10545	1575260	19
12	Karnali	309084	21351	629349	7
13	Seti	1330855	12550	1519105	18
14	Mahakali	860475	6989	965310	11
Total		23151423	147179	25359108	300

Map of constituencies based upon zones



Appendix E. Alternative distribution methods

The table below shows the seat allocation with some alternative distribution methods.

Ballot seq. no.	Party name	Percent votes	Modified Sainte-Laguë		Sainte-Laguë		LR with Hare's quota	
			Seats	Percent	Seats	Percent	Seats	Percent
1	Nepal Communist Party (UML)	20.33	70	20.90	69	20.60	68	20.30
2	Nepali Congress	21.14	73	21.79	72	21.49	71	21.19
3	Rastriya Janashakti Party	0.95	3	0.90	3	0.90	3	0.90
4	Rastriya Prajatantra Party	2.45	8	2.39	8	2.39	8	2.39
5	Janamorcha Nepal	1.53	5	1.49	5	1.49	5	1.49
6	Communist Party of Nepal (Maoists)	29.28	100	29.85	99	29.55	98	29.25
7	Nepal Workers and Peasants Party	0.69	2	0.60	2	0.60	2	0.60
8	Samajwadi Pra. Janata Party	0.33	1	0.30	1	0.30	1	0.30
9	Rastriya Janamorcha	0.99	3	0.90	3	0.90	3	0.90
12	Rastriya Janamukti Party	0.50	2	0.60	2	0.60	2	0.60
13	Rastriya Prajatantra Party Nepal	1.03	4	1.19	3	0.90	4	1.19
14	Communist Party of Nepal (Unified)	0.45	2	0.60	2	0.60	2	0.60
15	Communist Party of Nepal (Marxist-Leninist)	2.27	8	2.39	8	2.39	8	2.39
16	Rastriya Janata Dal	0.18	0	0.00	1	0.30	1	0.30
17	Communist Party of Nepal (United)	1.44	5	1.49	5	1.49	5	1.49
19	Dalit Janajati Party	0.38	1	0.30	1	0.30	1	0.30
20	Nepal Sadhvawana Party (Anandidevi)	0.52	2	0.60	2	0.60	2	0.60
21	Nepal Communist Party (United Marxist)	0.17	0	0.00	1	0.30	1	0.30
22	Madhesi People's Rights Forum, Nepal	6.32	22	6.57	21	6.27	21	6.27
23	Communist Party of Nepal (Marxist)	0.20	0	0.00	1	0.30	1	0.30
29	Nepal Janabhawana Party	0.12	0	0.00	0	0.00	1	0.30
33	Nepali Janata Dal	0.46	2	0.60	2	0.60	2	0.60
39	Rastriya Janata Dal Nepal	0.12	0	0.00	0	0.00	1	0.30
42	Lok Kalyankari Janta Party Nepal	0.17	0	0.00	1	0.30	1	0.30
43	Sadbhavana Party	1.56	5	1.49	5	1.49	5	1.49
44	Tarai Madhes Loktantrik Party	3.16	11	3.28	11	3.28	11	3.28
47	Nepal Pariwar Dal	0.22	1	0.30	1	0.30	1	0.30
48	Federal Democratic National Forum	0.67	2	0.60	2	0.60	2	0.60
49	Nepa Rastriya Party	0.35	1	0.30	1	0.30	1	0.30
50	Nepal Lokatantrik Samajbadi Dal	0.23	1	0.30	1	0.30	1	0.30
53	Chure Bhawar Rastriya Ekta Party Nepal	0.27	1	0.30	1	0.30	1	0.30
54	Tamsaling Nepal Rastriya Dal	0.19	0	0.00	1	0.30	1	0.30
	Total	100.00	335	100.00	335	100.00	335	100.00

Five more parties would have won seats with the unmodified Sainte-Laguë than with the modified: Rastriya Janata Dal, Nepal Communist Party (United Marxist), Communist Party of Nepal (Marxist), Lok Kalyankari Janta Party Nepal and

Tamsaling Nepal Rastriya Dal. With the unmodified method parties with more than 15,874 would have won seats.

If the method of largest remainder had been used even two more parties (compared to the unmodified Sainte-Laguë) would have won a seat and the smallest party to win a seat would have had as little as 12,678 votes, against an average cost of a seat of 31,628 votes.

As it was with the modified Sainte-Laguë the lowest number of votes that would give a seat was 21,916, or 0.204% of the votes. The average number of votes per seat is 31259. This is a quite reasonable difference since such a party ideally should have 0.68 seats, and it was actually given 1.

When the List PR system is to the country as one constituency it is more common to set a fixed threshold in terms of a percent in order of being able to compete for List PR seats. This is much easier for parties and the public to understand and it does not depend on the overall distribution of votes between the parties. Had one set a threshold of 0.5% all parties winning seats would have had at least two seats in the CA.