

**Politics of ‘Inclusiveness’:
A Study of Contemporary Nepalese Muslim Political Discourse**

Nazima Parveen
Visiting Scholar, CNAS
University of Kathmandu, Nepal

Abstract

The project traces how different communities of Nepal have been conceptualized as a nation. It offers a definition of their intrinsic relationship with different forms of Nepali state. The project examines the idea of inclusiveness—an idea which has recently gained popularity after the rise of the Maoist democratic regime. Inclusiveness has been regarded as a point of reference in looking at various political/administrative discourses which define Nepal as a singular entity and provide legitimate conceptual spaces to minorities.

Beyond the conventional mainstream/minority discourse binary, the project traces the genealogy of the concept of minority. It examines issues and concerns related to Muslims that pose a challenge to the formation of the erstwhile Hindu kingdom of Nepal, as well as the newly established democratic republican state.

This Muslim-centric approach is also linked with the policy discourse on preferential treatment, a demand rife with significant political overtones in the post-1990 transition period. For instance, Muslims did not only contest Parliamentary elections in 1991 but also demanded that they be given 10% reservation in educational institutions and government services.

In this sense, administrative policies specifically designed for the welfare and development of society might contradict those policies and programs dealing with the specific issues of minorities. In order to examine these complex issues, the study looks at the indigenous political resources that have contributed to the making and remaking of this discourse.

Introduction

The larger objective of this paper is to understand the ways in which *minorities* are conceptualized as essential constituents of an emerging ‘democratic republic’ of Nepal.¹ To approach this multifaceted question, the paper examines different forms of Muslim identities, their political manifestations and their complex encounter with changing legal-political discourses, especially in last twenty years.² In this sense, the *Muslim communities* of Nepal are not only studied as a ‘case study’ in a conventional way to investigate certain kind of minority politics, internal Muslim debates are examined to investigate the empirical complexities and conceptual debates on the rights of religious minorities and affirmative action.³

The paper critically examines the idea of inclusiveness to look at various political/administrative discourses, which have attempted to define Nepal as a singular political entity.⁴ This framework helps us in understanding the specific concerns related

¹ The use of the term ‘minority’ requires some clarification. In the classical nation-state framework, theoretically speaking, a minority represents a group of people who are different from the dominant religious, ethnic and/or linguistic identities of the majority. The ‘minority’, in this sense, may be characterized in relation to population, influence and/or cultural /religious association, and above all, a self-perception or awareness of distinctiveness. Thus, in a conventional sense, organized groups that consider themselves underrepresented in a political system could be called ‘minority’. However, this standard definition needs to be analyzed in the specific context of South Asia where modern processes of enumeration transformed social groups into majorities and minorities and produced various political identities – both in terms of nations and groups. From our point of view, the linkages between the *minoritization of Muslim identity* and the processes by which the idea of democracy is translated into the institutional mechanisms are crucial to understand the gradual politicization of Muslims in Nepal.

² The question of Islam and Muslim identity has emerged as a significant area of research in post-Soviet era. The terms like ‘global Islam’, ‘political Islam’ and ‘Islamization’ are used frequently to map out various political assertions of Muslims. This renewed intellectual interest in ‘Islam/Muslims’ also corresponds to the political contexts of post-1990s. In the wake of 9/11 terrorist attacks, ‘Islam versus west’ and/or ‘clashes of civilizations’ frameworks emerged as a dominant paradigm to understand Muslim politics in different regions. The middle-eastern Islam and/or Muslims living in Europe and Americas have been the focus of this emerging intellectual paradigm. The study of Muslims of South Asia has always been ignored by these intellectual attempts. It is worth mentioning that the study of Nepalese Muslims, which is linked to the South Asian Islamic communities and socio-political discourses, could not only bring us out of this essentialist picture of Islam versus west but also help in examining the complex character of groups of people who are, quite mistakenly, defined as a closed religious community. See Roy 1994, Esposito and Voll, 2001, Kepel, 2002.

³ It is important to note that I do not employ ‘case study’ to test any given hypothesis or theory. Rather, I am interested in exploring the nuances of the studied case so as to develop a specific argument. In this sense, the complex identity formation of Muslims and its placing in the larger universe of Nepalese politics is given equal importance.

⁴ The idea of inclusiveness stems from two western debates—the debate on social exclusion in 1970s in Europe and the debate on affirmative action in the US in 1960s. In the postwar western world, especially in

to a religious community in relation to the wider discourse of nation-building in Nepal. The study focuses on three interrelated questions as the central concern:

- a. How is the discourse of minorities, specifically the religious minorities, evolved in Nepal?
- b. How does the legal constitutional framework of Nepal define, adopt and implement the right to religion, especially in relation to minorities? What is the relationship between right to religion and discourse of inclusiveness in post-1990 period?
- c. How do Muslims look at the given discourse of minority rights and ‘inclusiveness’? What are the factors that shaped the multiple Muslim perspectives on these issues and help defining Muslims as a political community?

This exploration is relevant for three very crucial reasons. First, the waves of democracy in Nepal, especially after 1990s have not only posed a serious challenge to the power structure based on monarchy rule but have questioned also the notion of Hindu Kingdom, which has mainly been dominated by Bahun-Chettri-Newar elites in the past. Thus, monarchy as a system of government is contrasted with republicanism and democracy

non-communist world, the question of marginalized social groups was seen as a threat to the wider participation of people in the democratic politics. As a result, public policy was designed in such a way that ethnic and racial minorities and other deprived sections of society could find a space in the national mainstream. This policy was compatible with the welfare state model of governance. However, in the post cold war western world this idea of inclusiveness found a new impetus and became an intrinsic part of the policy framework to accommodate the increasing social diversity, which was a result of massive migration of various groups of people especially from Middle-Eastern and third world countries. This growing religious, cultural, ethnic and linguistic diversity is dealt in a variety of ways in the western world. The policy of multiculturalism and community cohesion became the central agenda of the policy discourse in its own contextual ways in Europe as well as in Americas (Parveen 2004 and 2005). In case of Nepal, the idea of inclusiveness needs to be seen at two levels. First, there is a history of the democratization of politics in Nepal, which brought different social groups into active politics by raising their distinctiveness. This assertion for a distinctive identity paved the way for increasing demand for social inclusion. The various phases of Janandolan led by different socio-political groups exemplify this ‘assertion for inclusiveness from below’. Secondly, and perhaps more importantly, the idea of inclusiveness is also coming from above in Nepal. The Nepal Donor Group meeting, for example, which was held in London in 2001 is supposed to be the first official program when the term inclusiveness is used. This term was later injected to the plans, policies and programs of the government of Nepal by the Department for International Development (DFID) and the World Bank in 2002 (Bhattachan, 2009). The mushroomed growth of various INGOs and NGOs in later years encouraged the use of the term inclusiveness. The local political assertions, which did not have a clear political overtone, thus, found a new sophisticated language of rights and participation. The Muslim politics of Nepal therefore needs to be examined in relation to the ways in which the idea of inclusiveness has been politicized in Nepal. For an excellent and wide ranging discussion on this topic see: Aditya, 2007.

while the Hinduism as a state religion is opposed by adhering to constitutional secularism. These debates revived the intellectual interests in the idea of minority. One finds two dominant definitions of 'minority' in the existing social and political discourse of Nepal. On the one hand 'minorities' are defined in terms of numerical size of different populations. People belonging to those castes, ethnic, religious or linguistic groups, which are less in numbers, are called 'minorities' (Dahal, 1996, 30-31). This definition relies more on the actual size of the group rather the relative marginalisation. That is why, newly politicized ethnic groups almost rejected this definition on the ground that they form about 70% of the total population of Nepal and even than they face discrimination and exclusion. It was argued that statistical mapping of social groups does not correspond to their marginalized status. This discontent led to another definition of 'minority', which tried to address the complex composition of social groups in Nepal. It suggests that 'domination' and 'discrimination' need to be taken as the defining characteristics to identify the powerlessness of any 'minority' group (Bhattachan, 1999, Lawoti, 2002, 20-27). The study of Muslim politics, who have been living in Nepal for centuries and who have always been enjoying some sort of legal recognition as a religious community in the past, thus, could offer a new dimension to this debate.

Secondly, the identification of social groups as 'minorities' and their self-perception also make Muslim perspective very significant. The State of Democracy in South Asia (SDSA) report, which is based on an extensive survey in South Asian region explains that the majority –minority framework, which has been established as the dominant mode of explanation of South Asian politics, is 'inadequate to capture the political and social relation' in this region (SDSA, 2008, 74). The findings of the report, especially in relation to 'objective and subjective minorities', further reveal that the multiplicity of groups claiming minority status leads towards a complex politics of 'minoritization'. According to the SDSA report 69% of total respondents in Nepal had no opinion on their self-identification as majority or minority. In fact, the Hindu respondents, who according to the national census constitute the majority community of Nepal, do not identify themselves as a majority. The report finds that only 17% Hindu respondents considered themselves as a majority whilst 70% did not have any opinion on this question. Quite

similarly, only 12% Muslim respondents replied that they belong to a minority while 84% had no opinion on this question (p. 263, table 5.6). This data very clearly shows that the minority –majority framework in Nepal marks a permanent tension between the modern idea of nation-state and a historically evolving political system.

Thirdly, it is often argued that the ethnic minorities in Nepal, particularly the religious minorities such as Muslims, do not subscribe to the popular demand for democracy. It is also said that the cultural and religious institutions of Muslims, which also function as a system of knowledge, quite often do not allow them to participate in non-identity based popular movements (Upadhyaya 2007). These arguments are used to demonstrate the backwardness and /or cultural apathy of the religious minorities. However, if we look at the participation of minorities in the political process, a very different picture emerges. According to the SDSA Report high caste Hindu support for democracy and the Muslim support for democracy is almost the same (SDSA, 20). The Report further identifies that Dalit and Muslims have shown greater trust in the existing public institutions in comparison to Hindu majority in Nepal (SDSA, 59). Perhaps, this is the reason why the support for democracy is almost the same among Hindus and non-Hindus in Nepal. These findings very clearly reveal that despite the fact that Muslims assert their specific cultural/religious identity in order to demonstrate their distinctiveness, they do share the popular political values.⁵

The paper is an ethnographic study of Nepalese Muslims. In this sense, it is an outcome of at least two kinds of methodological interventions- reinterpretation and review of public policy and legal-constitutional discourse and ethnography of event, people and sites (which includes interviews, group discussions and collection of visual sources such as pictures, maps and images). The first kind of imperative was used to understand the mechanism of legal-constitutional framework in Nepal by which the legal principles are

⁵ A number of Muslim religious leaders and practicing Muslims joined various communist parties in the Terai region in recent years. Maulana Jabbar, a leading Muslim religious leader of Nepalganj for example, joined the Communist party (UML) in the post-1990 riots (Dasider 2008, 165). In fact, I find that religious institutions such as mosques and Madarsas are often used as public places by Muslim communists to organize public meetings etc. Ather Faruqui, one of the leading communist leaders of Nepal, runs several religious institutions.

converted into concrete policies.⁶ I examined legal texts such as *Mulki Ain* (1854), various constitutions of Nepal including the existing interim Constitution of 2007 and various policy related declarations to find out the larger legal structure, which is supposed to govern the Nepalese political system. In order to understand the multiple receptions of this legal-constitutional framework, I collected ethnographic details through in-depth personal interviews with state officials and leaders of Muslim and a few non-Muslim organizations and various focus group discussions.⁷ The fieldwork for the paper was conducted in two phases. In the first phase, policy related documents were collected and reviewed and a series of interviews were carried out in Kathmandu. In the second phase, the responses collected through these interviews were re-conceptualized to conduct detailed interviews and group discussions in the Terai region.

I would also like to make a few clarifications to explain the scope and limitations of this paper. The first clarification is about the objective of my study. My objective is not to grapple with the much larger question such as the ‘Muslims of Nepal’ or Islam in Nepal. Instead, I am trying to understand, analyze and interpret the contemporary Muslim political discourse. Although, in this sense, the contemporary Muslim politics is referred to the activities and ideologies of political groups and Muslim political leaders in the post 1990 period, historical evolution of Muslim social groups in Nepal is analyzed as a point of reference. Analytically speaking, the formation of Muslim political identity and its political manifestation is the focus of my study. Secondly, I am not making any normative or judgmental comment on the demands and issues of Muslims of Nepal. As an outsider my attempt is to collect, organize and present various viewpoints, arguments,

⁶ In a broad theoretical sense, legal-constitutionalism refers to the larger structure of constitutional provisions and laws, which are designed to govern a political system. In general, the relationship between actual politics and the laws are often ignored. It is believed that laws are fixed while politics is full of fluidity. However, the slow and gradual processes by which laws are changed or the ways in which laws are understood and practiced in everyday politics in a longer period, reflects a very logical connection between law and politics. In other words, law provides a level playing ground for political actors while politics offers new possibilities to established, reform or change legal frameworks. For an excellent discussion on this point see Bhargava, 2008.

⁷ The interviews were carried out in Nepalese version of Urdu, which is mixture of Nepalese sanskritized words, and Urdu (spoken in UP) and a kind of local vocabulary. The Muslims of Nepal especially living in Terai region communicate in both Urdu and Nepali. The interviews were the main source of ethnographic details and clarification of various Nepalese sources used in the study. The English sources especially the secondary literature is used as a point of reference to place the narrative in a larger academic discourse.

claims and demands in a narrative form, which can be interpreted through other ethnographic details.

The final clarification is related to the adequate treatment of history. The present conditions as well as the demands of Muslim communities of Nepal are often located in the history of the Hindu monarchy rule. It is argued that although the Hindu rulers invited a section of Muslims, the whole process of unification, *Sanskritization* and caste-based polity marginalized their socio-economic status in society (Whelpton, 2007, 35-55). We are further told that the predicaments of Muslims are by nature historical and their present demands for inclusion and affirmative action needs to be seen in relation to historical injustice, which they have had faced. To some extent, this is a valid argument. Historical approach always helps us in understanding the present status of any social group in a comprehensive manner. However, over-emphasizing the past might distract our exploration. The issues and demands of Muslims in Nepal are a result of the process of democratization of recent time, which no doubt, has a historical relevance. Nevertheless, this historical relevance cannot be taken as the defining criterion by which Muslim demands could be analyzed.⁸ The Muslim political actors are very clearly responding to the 'integrated idea of Nepal', which has shaped the identities of Muslims in a significant way. These demands have nothing to do with the historical settlement of Muslims or

⁸ History writing has always been a contested process. Events, people, and places of historical importance are selected to construct an image of the past, which is compatible with the requirement of the present. That is why the standard history of nations is actually an account of the lives and acts of rulers, their battles for geographical expansions, symbols including monuments, which reflect their pride and glory so on and so forth. In reaction to these elite histories, a history from below or a history of people emerged in the 1960s. E. P. Thompson's works on the history of English working class can be a good example of this kind of writing, which marks the influence of various people's assertion for rights and dignity and an historical existence. The Marxist intellectual tradition was one of the leading trends of history writing of this genre. One of the most significant turns in this kind of historical writings came in mid 1980s when a group of historians began exploring South Asian's subaltern past. They challenged the dominant history writings-colonial, nationalist and even the Marxist writings and proposed that the history should be rewritten from people's perspective to understand politics of the marginalized (Guha, 1983). This debate re-formulated the question of subjective and objective realities of the past in a very significant way. The political history of Nepal, which is actually a history of monarchs so far, should also be examined critically from the point of entry highlighted by the subaltern tradition. Although a few attempts have been made to revise the elite mode of historical writing, we do not find any 'subaltern history' of Nepal (Kraemer, 2007). Thus, we have to take the question of history of Nepal very delicately- precisely because such a venture might lead us to the elitist history of Nepal, which cannot help us in understanding the complex historical existence of the concerned social group, in our case Muslims. Muslim leaders also argue that the history of Nepal should be re-written to accommodate the historical contributions of different marginalized groups including Muslims (interview with Siraj Faruqui and Athar Faruqui).

possibilities of any kind of religious injustice in historical terms. Thus, the Muslim history should be taken only as a reference point to understand the making of Muslim communities in historical sense. But Muslim political assertions *need not to be* highlighted to find out grand historical explanations in relation to their intrinsic religious distinctiveness or their origin and migration to different areas of Nepal. This is precisely what my fieldwork reveals. Almost all the Muslim political actors very categorically argue that they do not wish to get involved in the debates on such historical debates on their migration to Nepal. The present political assertions and demands of Muslim community, according to them, will determine the democratic character of the future of Nepalese politics.⁹



Figure 1 Map of Nepal: Source: http://www.crisisgroup.org/~media/files/asia/south-asia/nepal/111_nepal_electing_chaos.ashx

⁹Muslims/Islam is often characterized as historically alien to South Asian region. This dominant argument is justified on the ground that Islam, unlike Hinduism and Buddhism, originated outside South Asia therefore; it is entirely different both in terms of religious doctrine and mode of worship from the religions, which have indigenous roots. This argument is further evoked to underline ‘Muslim separatism’ (Robinson, 1974). There is another argument, which emphasizes on the assimilation of Islam in the South Asian region. These scholars argue that although Islam was originated outside South Asia, it assimilated in the local cultures in such a way that a distinctive South Asian Muslim identity emerged (Ahmad, 1983, Madan 1972)). The recent historical research of Richard Eaton tries to accommodate the merit of these two very different arguments. Eaton claims that there was a double movement of identity formation among Muslims in South Asia. On the one hand there was an interesting Islamization of local culture by which the local cultural resources were interpreted in Islamic terms while at the same time Islamic principles were localized in such a way that it became impossible to distinguish between Islamic and non-Islamic at the grassroots level (Eaton, 2000). The modern history writings especially in 19th century constructed an image of Muslim externality, which further consolidated in the 20th century with Pakistan movement. This explanation shows that the idea that Muslims are alien to South Asia is a modern construct. Therefore, Muslim diversity needs to be seen in different context so as to trace the social and political complexities of Muslim communities in South Asia.

Table 1: Nepal Fact Sheet

Capital:	Kathmandu. The capital, with a population density of approximately 2.2 million is a broad valley at 1,310 meters elevation.
Geography:	Flanked by India in the South and the Tibetan Autonomous Region of China in the North, Nepal is a landlocked country. Nepal is located in between the latitude 26° 22' N to 30° 27' North and longitude 80° 4' E to 88° 12' East and elevation ranges from 90 to 8848 meters. The average length being 885 km. east to west and average breadth is about 193 km. north to south. The high Himalayas stand in the northern belt, including the highest peak in the world, Mount Everest (29,035 ft; 8,850 m). Along its Southern border is the flat and fertile Terai region. The central hills have terraced cultivation and swiftly flowing mountain rivers. Eight of the world's highest peaks including Mount Everest are in Nepal.
Land boundaries:	52,819 sq mi (136,801 sq km); Total area: 56,136 sq mi (147,181 sq km)
Natural resources:	Water, hydropower, scenic beauty, limited but fertile agricultural land, timber, quartz, small deposits of lignite, copper, cobalt, iron ore.
Cultivated land:	25%
Population:	26,427,399 (2007 est.)
Birth Rate:	30.5/1000 (2007 est)
Population growth rate:	2.1% (2007 est.)
Infant mortality rate:	63.7 deaths/1,000 live births
Life Expectancy:	62.9 years for males and 63.7 years for females (2007 est.)
Monetary Unit:	Nepalese Rupees
Economy:	Nepal figures among world's poorest countries. There are various factors that have contributed to the economic backwardness of Nepal. Its topography, lack of resource endowment, land locked position, lack of institutions for modernization, weak infrastructure, and lack of policies conducive to development are some of the factors that have hindered the Nepalese economy. Due to its landlocked situation, Nepal relies heavily on its neighbors India and China for its trade, especially on India. Nepal's economy has been subject to fluctuations resulting from changes in its relationship with India as a result of its geographical position and the scarcity of natural resources.
Industries:	Tourism, carpet, textile, jute, sugar, rice and flour mills, oilseed mills, cigarettes, handicraft, readymade garments, cement and brick

	production																								
Exports:	Carpets, pashmina, clothing, leather goods, jute goods, grain																								
Imports:	Gold, machinery and equipment, petroleum products, fertilizer																								
Work Force:	Agriculture-71%; services-11%; industry-3%; others-15%.																								
Former System of government:	Monarchy- Hereditary Prime Minister - elected through legislative parliament																								
Administrative Divisions:	<ul style="list-style-type: none"> • 5 development regions, • 14 zones, and • 75 district development committees, • 58 municipalities, • 3,913 village development committees, and 36,023 ward committees. 																								
Current System of government:	<p>The Constituent Assembly is a unicameral Parliament, consisting of 601 members. 240 members of the Assembly were elected through a direct electoral process representing single-member constituencies across the country. 335 members were nominated from party lists through a proportional representation system and 26 were nominated by the cabinet.</p> <p>On May 28, 2008 the newly elected Constituent Assembly declared Nepal a Federal Democratic Republic, abolishing 240 years of monarchy. With the changes, the President is the head of state and the Prime Minister the head of government.</p>																								
Main Political Parties:	Communist Party of Nepal-Maoist, Nepali Congress Party, Communist Party of Nepal-United Marxist Leninist, Madhesi People's Rights Forum, Terai Madhes Democratic Party, Sadhbavana Party, Rastriya Prajatantra Party.																								
State Bodies:	<p>1. Executive: President (Head of state), Prime Minister (Head of government),</p> <p>2. Legislative: According to the election held in April 10, 2008:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td>Communist Party of Nepal (Maoists)</td> <td style="text-align: right;">220</td> </tr> <tr> <td>Nepali Congress</td> <td style="text-align: right;">110</td> </tr> <tr> <td>Communist Party of Nepal (U.M.L.)</td> <td style="text-align: right;">103</td> </tr> <tr> <td>Madhesi People's Rights Forum, Nepal</td> <td style="text-align: right;">52</td> </tr> <tr> <td>Terai Madhes Loktantrik Party</td> <td style="text-align: right;">20</td> </tr> <tr> <td>Sadhvawana Party</td> <td style="text-align: right;">9</td> </tr> <tr> <td>Rastriya Prajatantra Party</td> <td style="text-align: right;">8</td> </tr> <tr> <td>Communist Party of Nepal (M.L.)</td> <td style="text-align: right;">8</td> </tr> <tr> <td>Janamorcha Nepal</td> <td style="text-align: right;">7</td> </tr> <tr> <td>Communist Party of Nepal (United)</td> <td style="text-align: right;">5</td> </tr> <tr> <td>Rastriya Prajatantra Party Nepal</td> <td style="text-align: right;">4</td> </tr> <tr> <td>Rastriya Janamorcha</td> <td style="text-align: right;">4</td> </tr> </table>	Communist Party of Nepal (Maoists)	220	Nepali Congress	110	Communist Party of Nepal (U.M.L.)	103	Madhesi People's Rights Forum, Nepal	52	Terai Madhes Loktantrik Party	20	Sadhvawana Party	9	Rastriya Prajatantra Party	8	Communist Party of Nepal (M.L.)	8	Janamorcha Nepal	7	Communist Party of Nepal (United)	5	Rastriya Prajatantra Party Nepal	4	Rastriya Janamorcha	4
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	Nepal Workers and Peasants Party	4
	Rastriya Janshakti Party	3
	Federal Democratic National Forum	2
	Nepal Sadhvawana Party (Anandidevi)	2
	Rastriya Janamukti Party	2
	Nepali Janata Dal	2
	Communist Party of Nepal (Unified)	2
	Independent	2
	Dalit Janajati Party	1
	Nepa: Rastriya Party	1
	Samajwadi Prajatantrik. Janata Party, Nepal	1
	Chure Bhawar Rastriya Ekata Party Nepal	1
	Nepal Lokatantrik Samajbadi Dal	1
	Nepal Pariwar Dal	1
	Nominated by Government	26
	3. Judiciary: Chief Justice (Head of Supreme Court)	
Ethnic Groups:	Brahmans-(Hill) 12.74%, Chettri 15.8%, Magar 7.14%, Tharu 6.75%, Tamang 5.64%, Newar 5.48%, Muslim 4.27%, Kami 3.94%, Yadav 3.94%, Rai 2.79 other 41.51(2001)	
Religions:	Hindu 81%, Buddhist 11%, Islam 4%, Kirant 4% (2001). There is also a small Christian population in Nepal. The interim constitution promulgated on January 15, 2007, declared Nepal a secular state.	
Languages:	Nepali 48% (official), Maithali 12%, Bhojpuri 7%, Tharu 6%, Tamang 5%, others. English spoken by many in government and business (2001)	
Literacy:	49% (63% male, 35% female)	

Source: Government of Nepal <http://www.nepalcaportal.org/EN/political-development/>

II

The historical evolution of the idea of minority: Minoritization of Muslims in Nepal

Who are the Nepalese Muslims?

The presence of Muslims in a Hindu Kingdom has always been a matter of curiosity. In fact, Muslims, as the followers of a *bideshi* Dharma along with Christians were often

seen as an ‘Other’. However, the increasing democratization of polity has not only challenged the established ‘*sanskritized*’ classification of *deshi* and *bideshi* dharma but also has encouraged the marginalized social groups to demand for dignity and rights. Consequently, in the post democracy phase, the politicization of Muslim identity has made them a politically significant social group. Precisely for that reason, the question ‘who are the Nepalese Muslims’ is a political question, which goes beyond the simple demographic statistics. Nevertheless, Muslims form the second largest religious minority in Nepal comprising, according to the recent official data, 4.2% of the total population.¹⁰ Regionally, there are four groups of Muslims in Nepal- Kashmiri, Tibetan, Madhesi and Churaute.¹¹ The Hill Muslims are known as Churaute. A major part of the total population of Muslims lives in Terai region (Siddika, 1993). There are different sects and casts among Muslims, which characterizes the social and cultural diversity of Muslim communities in Nepal.

Although the interaction between Islam (and Muslim rulers) and Nepal is quiet old. The recent historical works show that Muslims came to Nepal in four different phases. In the

¹⁰ The actual number of Muslim population is a highly contentious matter in relation to the discourse of the enumeration of different identities in Nepal. I will elaborate this point in the later sections of this paper.

¹¹ The term ‘Madhes’ is used to describe the plains of eastern and central Terai region and the term ‘Madhesi’ refers to the people living in these plains. The term includes Hindu castes, Muslims and some indigenous ethnic groups mainly Tharus and Limbu (Gaije, Regionalism, p 2). The use of the term ‘Madhes’ and ‘Madhesi’ is a matter of controversy since it acquires a meaning, which has been politicized to assert for a collective identity in the wake of democratic upsurge in Nepal. The ‘Madhesies’ are defined as non-paharis with inferior culture, customs and language in the dominant discourse of pahari people in a highly derogative manner. This point also came up during the individual interviews and group discussions that Terai people have been abused by Paharis. This distinction is further intensified to characterize the non-Nepali or migrated status of Madhesi people since the term ‘Madhes’ has been historically originated from a Sanskrit word ‘*Madhyadesh*’, which is referred for north Indian region primarily for Bihar and UP (Dahal, 2002, 1-2). The dominant discourse of Monarchy, Hinduism and the hierarchy of Nepali language has always excluded Madhesies mainly because of their distinct culture and cross-border links. Nepal Sadbhavna Party was the only regional party, which raised the concerns of Madhesies. All the major political parties, NGOs and INGOs such as Madhesi Rashtriya Mukti Morcha, Madhesi Janadhikar Forum and so on are now raising the question of autonomous regional identity of Madhesis (for a detailed discussion see Crisis Group Report, Nepal’s Troubled Terai Region) In the backdrop of this whole discussion on Madhesi identity, the question of ‘Madhesi Muslims’ become an important point of concern since 97% of the total Muslim population of Nepal lives in Terai region (Ansari, 2007, 150-152 and Siddika, 1993). Concentrated mainly in Parsa, Rautahat, Kapilabastu and Banke, the Muslims of Terai also have cross-border links with the Muslim population in Bihar and Uttar Pardesh. In this situation, the Muslims of Terai face two-fold exploitation and marginalisation because of their regional and religious associations. This is the reason why the left groups realized the distinct ethnic, cultural and religious status of the Muslims of Terai in comparison to the overarching Madhesi identity. The, left oriented Muslim leadership, therefore, conceptualized the issues and concerns of the Muslims of Madhes in the wider discourse of Muslim unity in Nepal (field interviews with Muslim political leaders and Group Discussions).

first phase (1484 to 1520), a section of Kashmiri Muslims came to Nepal primarily for trading etc. Apart from these traders, Kashmiri Muslims were also invited by the Nepalese ruler Ratna Mallah to work as scribes (int. Siraj Faruqui and Athar Faruqui also see chronology 1 for details). According to the Nepalese chronicles known as *Vanshvalis*, these scribes helped the King Ratna Mallah to create a *Munshi Khana*, a department, which used to manage official documents and letters. This department, we are told, was also instrumental in making contacts with the Delhi Sultanate (Siddika 1993, 103). We have to remember two things here. One, these Muslims belonged to the economically powerful and culturally rich communities, who settled down in Nepal, especially in the hill region, for very clear economic interests. Secondly, this was the time when Nepal was not an integrated political unit of any kind. Thus, this first phase should not be seen as a kind of ‘Muslim influx’ mainly in Katmandu valley and Lhasa.

The second phase (17th century) began when the *Chaubisi* kings of Nepal’s western hills invited Muslim artilleries and artisans from India to train their armed forces in Mughal techniques of making firearms (int. Siraj Faruqui and Athar Faruqui also see chronology 1 for details). In the later period, particularly after the unification of Nepal, most of these Muslims got involved in other professions including farming.¹² It is said that the *Churaote* Muslims, who were involved in selling bangles etc. were closely related to these second wave of Nepalese Muslims (Gaborieau, 1972, 84-85). What is important in this historical description is that for the first time the Nepalese caste based professional structure accommodated the Muslim communities and for that reason, Muslims also acquired a well-defined social status in the overall caste hierarchy. This aspect became

¹² Term ‘unification’ needs to be taken seriously here. In almost all the standard histories, the unification of Nepal is shown as one of the most important political event in the rise of modern Nepalese nation-state. We are told that in the mid-18th Century, Gorkha ruler Prithvi Narayan Shah expanded his regime and established his rule over various independent principalities. His regime is more or less similar to the geographical boundaries of modern day Nepal (Whelpton 2007, Ch. 2). The establishment and subsequent consolidation of this unified political rule is described as ‘unification’ in the modern sense of the term. But, there is a problem with this description, especially from the point of view of present day minorities. Nepal, like any other geographical region of South Asia was highly diversified entity in the 18th century. The political boundaries were highly fuzzy and unfixed. In addition, the ruler did not have control over the customs and religions of people and groups. Consequently, the high politics of rulers and nobles did not have very noticeable impact on the everyday lives of communities. The distinctiveness of various social and ethnic groups and their customary laws were not going to be affected by seemingly major political events such as ‘unification’.

very evident in the 19th century when the *Mulki-Ain* codified the social status of different social groups, including Muslims.

The mutiny of 1857 in India marks the third phase of Muslim immigration. One of the wives of Wajid Ali Shah, the Nawab of Awadh, Begum Hazrat Mahal, and Maulana Sarfaraz Ali Shah, the Mufti of last Mughal emperor Bahadur Shah along with a sizeable number of Muslim nobles and servants took refuge in Katmandu (Dastider, 2008, 91). This flow of elite Muslim migration created a new Muslim presence in the Katmandu valley and consequently, a few mosques and *dargahs* (shrines) were built and/or renovated.

Finally, the influx of Tibetan Muslims indicates the fourth phase of Muslim migration in Nepal. In 1959, China took over Tibet and declared it its own territory. This turmoil forced over 100 Muslim families to move to Katmandu valley (Dastider, chapter 4). These Muslims were mainly involved in the profitable carpet business, which helped them in securing a good economic position among the Muslims of Nepal. Although this Muslim migration was insignificant in terms of numbers of Muslims, it on the one hand, increased the plurality of Muslim community of Nepal, while at the same time, augmented the class differences among Muslims. In addition, the migration of Tibetan Muslims offered a new dimension to Muslim plurality as for the first time racially and culturally different Muslims became an inseparable part of the larger Muslim community in Nepal.

These four phases of Muslim migration to Nepal, it is important to note, are not directly related to Muslim populations living in the Terai region. After the Anglo-Nepal war of 1814, when the boundaries of southern Nepal and India were clearly marked, a large part of areas near present day Indian states of UP and Bihar, which as a matter of fact, inhabited by a significant numbers of Muslims, became the territory of Nepal. As a result, Muslims, who were mainly involved in agricultural work, formed the bulk of the Muslim community in Terai region. It is interesting to note that the boundaries between India and Nepal have always been very fuzzy. Even today, people need not to get any permit or official document to visit either country. This arrangement encouraged people from both

sides to move freely in the region. This free movement of population later paved a way for a very specific kind of politics, which I talk about later.

Legalizing the Muslim Identity in Nepal

Let us now look at the processes by which the social as well as the legal status of Muslims is defined in Nepal. This will give us a clear picture of the dual process of Muslims' accommodation in Nepalese cultural and political discourse. We find that Muslim political discourse gradually evolved with the evolution of the idea of Nepal as a nation. In this regard, I identify three crucial moments of Nepalese history, which not only transformed the meanings of the term 'minority' but also contributed quite significantly in setting the terms of discourse of Muslim politics.¹³

Table 2: Legal Status of Religion in Nepal

Features	1948	1951	1959	1962	1990	2007 (Interim Constitution)
	Traditional Rana Regime	Monarchy rule/King's government	Parliamentary Monarchy	Parliamentary Panchayat System	Parliamentary Democracy	
<i>Religion</i>	Lord Pashupatinath was mentioned in the preamble, freedom of worship.	No mention	King had to be a Hindu. Right to practice one's traditional religion was allowed. No conversion to other religions was	As in the 1959 Constitution, with the additional mention that Nepal was to be a Hindu state and the cow was	As in the 1959 Constitution, with the additional mention that Nepal was to be a Hindu state and the cow was	Secular state, the cow remains the national animal. People have the right to practice their traditional religions; no

¹³ It is important to note that the term 'Muslim politics' in Nepal is a very recent phenomenon, though; Muslims have been living in Nepal for many centuries. According to the Supreme Court Judge Tahir Ali Ansari, Muslims had a very different relationship with the ruling power in 1960s and 1970s. Muslim demands were largely related to the social and cultural development of the community. However, with the rise of democratic movements, these social and cultural issues of identity acquired a political overtone. So Muslim politics is actually an outcome of a trajectory, which began in the post 1950 Panchayat regime. I will talk about Muslim politics in detail later in the next session.

			allowed.	recognized as the national animal.	recognized the national animal.	conversion to other religions is allowed.
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The '*Mulki Ain*' of 1854 was the first codified legal text, which defined the status of various communities and ethnic groups. Thus, pure and impure, natives and foreigners, *parbatiya* and *Madhesi* and various other caste-based social groups in Nepal were given social grading based on their origin and customs. The existing literature on *Mulki Ain* shows that the objective of this codification was to conceptualize the idea of a unified nation in a strict political - religious sense. However, the nature of this Hindu state was very different from the European nation-states. Mark Gaborieau's study of the Muslims of Nepal, especially in relation to *Mulki Ain*, explains that although the codification of religious status of different groups provided them a clear placing in the conventional caste ranking, the practices of these castes and sub-castes continued to be governed by their everyday cultural milieu (Gaborieau, 1972). *Mulki Ain* itself claims that it was basically a compilation of the *thithibandeg* (referred to an established social order in the state) issued by various kings of the past. Perhaps for that reason, the conventional sources such as *Dharamshstra* and *lokdharm* found a very clear expression in *Mulki Ain*. This argument is further elaborated by Andras Hofer's study of *Mulki Ain*. He claims that on the one hand there was a clear European influence on *Mulki Ain* but at the same time it was an outcome of some of the very specific Nepalese political practices. In this sense, *Mulki Ain* was a social and cultural text, which simply recorded the beliefs and customs of a ruling class/caste in relation to other social groups. Prithvi Narayan Shah's famous dictum, that Nepal, not India, was the real Hindustan (home land of Hindus), could be taken as an important point in this regard.¹⁴

¹⁴ It is important to analyze *Mulki Ain* in its own context. It was a serious and modified interpretation of conventional texts such as the *dhramshastrta* and *dharmasutra* etc., so as to explain, codify and regulate everyday social relations. The classification of social groups, we have to remember, was based on the actual social conducts prevailing in the 19th century Nepalese society. Precisely for that reason, the modern vocabulary of minority and majority was absent in this text.

Mulki Ain offers an interesting classification of Muslims. Although Muslims are seen as members of a single caste group, they are classified in two different ways to underline the distinctiveness of each social group in relation to Hindu castes. First, Muslims are defined in terms of touchability and untouchability. In this sense, Muslims were regarded as impure but touchable caste. However, Muslims (*Musalman*) and hill Muslims are seen as two different communities and the latter were placed in the lower rank of touchable impure castes. The categorization of native Muslims (*Nepal ka Musalman*) and foreign Muslims (*pardesi Musalman*) mark the second kind of classification. Foreigner Muslims were ranked in the lower category while the *Nepal ka Musalman* found a relatively higher rank (Hofer, 131). The lower placing of foreign Muslims, especially the Kashmiri Muslims, reflects a general approach, which gives preference to the natives. However, this aspect could also be seen as an example of ‘otherness’, where a clear distinction is made between the native and foreigner.

It is important to contextualize this process of codification simply to avoid two possible misconceptions. First, the classification of Muslims in *Mulki Ain* does not offer them any closed identity rather it recognizes the multiple ways in which Muslims social groups are associated with the existing caste system. Therefore, the argument that *Mulki Ain* is a part of the larger project of the *Hinduisation* of Nepal does not help us in understanding the complex structure of this text. Secondly, the process of codification as we pointed out earlier should not be seen in isolation to the direct and indirect impacts of British colonialism in India especially when the mighty Mughal Empire was declining. The presence of East India Company, a powerful modern political player in the sub-continent, not only posed a serious challenge to the ruling class of Nepal in relation its geo-political existence but also forced them to search for a religious-political legitimacy. *Mulki Ain* could be called an outcome of this search for political distinctiveness. Since the communities were not enumerated at that time, the only possible mode by which legal norms could be codified was to acknowledge the fuzzy and unclear boundaries of social groups.¹⁵ This is precisely what *Mulki Ain* does in relation to Muslims. No doubt that

¹⁵ Sudipta Kaviraj’s argument is useful here to understand the uniqueness of *Mulki Ain*. Kaviraj argues that in the pre-colonial India the principle of community construction was different. These communities were ‘fuzzy’ in two senses: first, the complex sum of different identities, such as caste, village or region, was

Mulki Ain exercises some sort of *power* in mapping the customary existence of various groups including Muslims, the nature of this *power* cannot be understood in terms of modern census-based stratification. That could be a possible reason behind the complex terminology of *Mulki Ain*, which is full of Persian and Sanskrit terms.

The rise of political parties in late 1940's is the second crucial moment, which is inextricably linked to the democratic assertions of the people of Nepal. The constitutional developments that took place in the 1950s and 1960s (1948 Constitutions of 1948 and 1951 and changes introduced in the *Mulki Ain* etc.) especially the establishment of Panchayat system in Nepal integrated various social and religious groups in the political processes. Although no special legal provisions were introduced to protect the rights of various groups, the Panchayat system in a sense, expanded the scope of political participation to some extent. It is important to clarify that these constitutional developments did not touch upon the question of the religion of the state in modern sense though Nepal's status as a Hindu nation continued to be a defining characteristic of these legal changes. For example, in the 1948 Constitution, *Lord Pashupatinath*, one of the most revered deities of Nepal whose temple in Kathmandu still enjoys a special status, was mentioned in the preamble. The 1959 and 1962 Constitutions respectively very clearly pointed out that King had to be a Hindu and Nepal was to be a Hindu state.¹⁶ However, the most significant aspect in this regard was the 'right to religion'. The 1962 Constitution allowed the citizens of Nepal, especially the non-Hindu religious communities, to practice their traditional religions. It is important to note here that 'right

fuzzy. There wasn't any overarching identity of a community available to them that could claim to represent all the layers of social bonds of an individual. Second, communities were not enumerated. He points out 'they [members of these fuzzy communities] would not represent themselves as a large universal collective group... for the very fact of being one, being involved in some action' (Kaviraj 1997, 147-148). He argues that colonial modernity provided a clearer self-perception to Indian communities through the processes of statistical counting and spatial mapping. Consequently, it became possible to think of a homogeneous community, the exact numbers of its members and its common interests. It is also true in case of 19th century Nepal. However, lack of direct colonial rule and continuation of monarchy based political system in the 20th century offered a very different form of modern community construction, which I am going to deal with in the next section of this paper.

¹⁶ Representation of Nepal as a Hindu state requires some sort of clarification. Nepal's legal status as a Hindu state could be traced back to the *Mulki Ain*, which as we have seen redefined the social structure of Nepal strictly in terms of existing Hindu caste system. However, this assertion for 'only Hindu Kingdom' kind of a national identity should also be located in the context of the geo-political processes in South Asian region which took place in mid 20th century, especially after the partition of sub-continent on religious basis.

to religion’ was constitutionally recognized for the first time though religious communities, particularly Muslims, had been already practicing their conventional social customary laws. Reflecting on this complex question of the ‘right to religion’ in the 1962 constitution, Tahir Ali Ansari, the only Muslim Judge of the Supreme Court of Nepal argues that this right to religion should be seen in the context of 1960s. At that time, King was the supreme authority and there was no tradition of claiming rights. The rights given to people- especially the right to traditional religion etc. – were merely a legal sanctioning to the already established socio-cultural practices. Moreover modern political identities had not been constituted so far and group consciousness for claiming rights was not there. In this context, on the one hand these given rights did not change or transform the existing cultural and social practices while on the other hand, it was not possible for any social group and/or political parties to stage any protest. Ansari further clarifies that Islamic *shariyats* were the prime doctrines by which social order of Muslim communities were governed. However, the matters of dispute such as distribution of property, polygamy and divorce had to be settled according to the established Nepalese legal code. This system of law was not restricted to Muslims. All religious communities were subject to these legal provisions (interview, Judge Tahir Ali Ansari).

Table3: Political Representation of Muslims in Nepal

No	Item	Muslim	Nepal
	Representation in National Legislature		
1.	First experiment with democracy-1959	1.8	100%
2.	Party-less Pachayat	1.6	100%
3.	Second experiment with democracy – 1990	2.3	100%
4.	Third experiment with democracy- 2008	2.8	100%

Source: UNDP Nepal 2009. Nepal Human Development Rep[ort 2009, Kathmandu: UNDP Nepal: DFID and World Bank. 2006. Unequal Citizens. Kathmandu: DFID and World Bank. Modified version of the table used by Krishna Hachhethu, Social Exclusion

and Nepali Muslim: A Case Study of Banke District, *Contribution to Nepalese Studies*, Vol. 36, especial issue 2009. P.85.

The right to religion given to religious minorities worked in two interrelated ways for Muslims. First, it recognized the distinctiveness of Muslims in a modern sense of the term. Muslims population that was spread all over Nepal somehow transformed into a single political unit in this period. According to Iqbal Iraqi (the first Muslim parliamentarian of Nepal and a core member of Rashtriya Janatantrik Praja Party) in the 1950s and 1960s the king encouraged an informal system of representation by which the 'elders' of different communities were given some kind of political responsibilities in maintaining cordial relationships among different groups. This aspect shows that the ruling class drew its legitimacy from the minority communities through this process of informal nomination. Iqbal Iraqi informed us that he himself was nominated for participating in various international conferences as a representative of Nepalese Muslims. This informal process to identify a few responsible community leaders, in a broader sense, provided a specific political status and therefore recognized the minority status of Muslims as a religious group (interview, Iqbal Iraqi) . Secondly, it also encouraged Muslims to establish social and religious networks for asserting this distinctiveness. For example, the first Muslim organization, All Nepal Anjuman Islah, which was established in 1953, for the social and economic development of Muslims, filed a petition to the Department of Education in 1958 for the inclusion of elementary Urdu and Persian instead of elementary Sanskrit in SLC examination for the whole Muslim community in Nepal (Dastider, 2007, 153). This aspect underlines the fact that the introduction of the right to religion even in its restricted form paved the way for an identity based Muslim politics of some kind.

The final moment of this process of minoritization of Muslim identity began in the 1990s when mass politics introduced a discourse of rights and equality. The constitution of 1990 was the first important landmark in this regard. Although this Constitution adhered to the idea of Hindu state, it introduced significant clauses related to religious minorities. For example, it was clearly pointed out that the state should treat all its citizens equally

(Article 11 and 12 of 1990 Constitution). In addition, all the citizens will be free to profess and practice religion. Article 19 says:

(1): Every person shall have the freedom to profess and practice his own religion as coming down to him hereditarily have due regard to traditional practices. Provided that no person shall be entitled to convert the religion of any person.

(2) Every religious denomination shall have the right to maintain its independent existence and for that purpose to manage and protect its religious places and trusts.

The introduction of these clauses marks an interesting contradiction, especially from the point of view of Muslims. On the one hand, Muslims were given right to profess Islam but at the same time it stops them from spreading Islam, especially in terms of conversion, within the territory of Nepal. One can find the origin of this kind of restriction in the *Mulki Ain* itself. This complex construction of right to religion, as we shall see, created space for the growth of Muslim institutions to propagate Islamic teachings within the community, which also had a clear political overtone.¹⁷

The second important development of this period was the emergence of the idea of inclusiveness. The Interim Constitution of 2007 is a comprehensive document in this

¹⁷ Conversion has been one of the important issues in defining the character and rights of the religious communities in *Mulki Ain* of 1854. It quite instructively explains that no conversion can take place between Hindu and other religious groups specifically between Hindu and Muslims and Hindu and Christians. Thus, it is very much clear that the restriction on the propagation of religion outside the community and conversion was not a new phenomenon. The question of conversion found a new political overtone in the Interim Constitution (IC). Art. 23 (1) says, "Every person shall have the right to profess religion...provided that no person shall be entitled to convert from one religion to another, and no person shall act or behave in a manner which may infringe upon the religion of others." This is very evident from this Article that conversion of religion is considered to be an infringement of others right to religion. If we compare the IC with *Mulki Ain* 1854, we find that conversion is opposed by two very different legal dictums. In case of *Mulki Ain* conversion is opposed primarily because it was considered as a threat to the established hierarchical structure of social relations. On the other hand, the IC speaks a language of individual rights. Here the conversion is seen as an infringement of once right to religion. What is revealing in both the cases is that the fixity of religious belief is seen as a determining factor of Nepal's society and polity. However, my fieldwork reveals that inter-religious marriages between Hindus and Muslims and/or other religious communities have been an important source of conversion in Terai region. I was told during the field interviews that inter-religious marriages were virtually ignored or dealt within the social and customary framework of communities by simply rejecting any kind of social contact with the concerned couple(s). These cases are usually not reported to authorities.

regard, which set out the terms for an inclusive polity for Nepal. It tries to restructure the state in such a way that the problems related to class, caste, region and gender could adequately be addressed. I shall discuss this aspect in detail in next section. Now the question arises: what was the reception of this minoritization, especially in last two decades? To answer this question, I situate my ethnographic study on Muslims in this broad framework. More precisely, I look at the internal and external formation of Muslim community in Nepal and the multiple ways by which this community ‘imagine’ itself to be included in the idea of a democratic Nepal.

III

The Muslim Politics of Inclusiveness

The cotemporary Muslim politics of inclusiveness in Nepal has two main sources -- (a) the Muslim social-religious institutions and (b) the present debate on inclusiveness. Muslim politics draws its legitimacy from Muslim social/religious institutions, which evolved in Nepal, especially after Panchayat rule. The most important among these were the *All Nepal Anjuman Islah*, the *Jamitul Muslim* and the *Idare Tamire Millat*. All these organization merged into one *All Nepal Anjuman Islah* in 1958.¹⁸ According to Iqbal Iraqi, the protection given to Muslim social groups during the time of Kings’ rule actually played a crucial role in their subsequent politicization (interview, Iqbal Iraqi). In fact, the economically powerful Muslims who had some kind of political connections with ruling power started mobilizing resources either to form new religious/social organizations or to establish control over the numerous localized religious institutions, which were already

¹⁸ Anjuman Islah, according to Iqbal Iraqi, being the only representative of Nepalese Muslims during Panchayat regime, played an important role in the construction, maintenance and protection of mosques, shrines and graveyards (interview with Iqbal Iraqi). Mr. Ahmeddin, the chairperson of the Anjuman Islah was nominated twice by King Mahendra to the highest Legislative body in 1960 and 1963. Dastider, 2008, p154.

The government formed a committee named *Madarsa Janch Boojh Karyadal* for the study of Madarsas in Nepal, for the very first time in 1994. The purpose of this committee was to examine the status of Madarsas and identify the areas where possible reforms could be made to link the madarsa system with modern education. According to the chairperson of Ettehad Sangthan, Siraj Faruqui, the formation of this committee is significant because this committee’s report was the first organized study of the Muslims of Nepal.

functioning. These initiatives were encouraged by the ruling power because such institutions were supposed to operate within the constitutional and political framework, and at the same time, they could provide a kind of ideological and political justification to the partyless Panchayat rule. In course of time, especially in 1980s the social and cultural networks evolved out of these institutions started contributing in the making of a distinct political identity of some kind. For example organizations like *Millat-e-Islamia* and the *Muslim Seva Samiti* slowly began to emphasize on the separate religious Muslim identity. These institutions turn out to be the sites where political and social discourse is constituted.¹⁹

The discussion with a group of Muslims belonging to a worldwide network of a religious movement called the *Tablighi Jammāt* is significant here. I was told that *Tablighi Jammāt* in Nepal works as a religious network to educate Muslims about their *true* religious duties and practices especially in relation to offering five -time *namaz* (Islamic prayer), *roza* (fast) and *zakat* (Islamic charity). Although the respondents categorically said that *Tablighi Jammāt* did not have this worldly objective, they admitted that this religious networking did help in spreading awareness about the distinctive religious identity of Muslim and their legal-constitutional rights (GD, Nepalganj).

I also found that the institutions such as Muslim *Musafirkhana* (traditional form of guest house), mosques and Madarsas also play a crucial political role. The Nepalganj Muslim Musafirkhana is a good example here. Being a place of transit, this *Musafirkhana* accommodates Muslims and even non-Muslims. Muslim political leaders, *ulema* (religious leaders/Islamic scholars), Muslim traders from eastern UP and other parts of Nepal stay in this *Musafirkhana*. In this sense it is a place of interaction and dialogue. One finds that travelers and guests use this place to discuss various issues including

¹⁹ Two kinds of Muslim organizations have come up after 1990s. The political parties encouraged Muslims to form some kind of pressure groups, which work outside the fold of politics but enjoy certain amount of political patronage. The second kinds of organizations were mainly political and have clear organizational and ideological linkages with political parties. Since there was a consensus on some kind of Muslim demands, the newly emerging Muslim political leaders realized to form various umbrella organizations in order to consolidate their political positions. It was not only helpful for elevating the status of a group but also feasible to provide a platform to diverse Muslim voices. A number of umbrella organizations have been established since 1995. The united Muslim National Struggle Committee, which was involved in six-point agreement, is also such an organization.

everyday politics in their formal/informal conversations. Perhaps for that reason the nature of Musafirkhana is fast changing. I came to know that *Musafirkhana* is being used as a social hub for organizing political meetings especially after the rise of democratic movement.²⁰ This example very clearly shows that Muslim self-help institutions provided a social platform to Muslim political groups emerged in last twenty years.²¹

The nature of recent debates on inclusiveness in Nepal is the second important source of contemporary Muslim politics. There are two important points in this regard. First, the official idea of inclusiveness is a response to the demands of ethnic and regional identities, which in the post- Maoist political scenario have emerged as major political voices.²² The rights and privileges of *Janajatis*, especially in relation to culture and heritage, social inclusion of lower caste Hindus known as *Dalits* and the autonomy of regional identities such as *Madhesies* are some of the main issues of the debate on inclusiveness (See table: Inclusiveness Discourse of Social Groups in Nepal).

Table 4: Inclusiveness Discourse in Nepal

Identity/Group	Issues	Major arguments in favor of Inclusiveness	What need to be done
Indigenous people/Jan	Increasing homogenization,	Creation of society as a 'rainbow'	Affirmative action for minorities, proportional representation at all

²⁰ In recent years, a number of communal riots have taken place in the Terai region. The destruction of Babri Masjid in 1992 in Ayodhya, India by a section of right-wing Hindus, created a kind of communal atmosphere in this region. The Hindu fundamentalist forces became proactive, especially the Nepali Sawayamsevak Sangh (NSS) tried to replicate Indian rightist Hindu politics in Terai. Interestingly, NSS also run two schools and a few cultural institutions such as a modern gyms and a cultural centre in Nepalganj. In 2008 when a few Nepalese citizens were killed in Iraq, Muslim Mosques and other institutions were targeted mainly in Kathmandu. Musafirkhana, which has been a site of interaction, became a focal point of political activities at that point of time.

²¹ The institutions of mosques and shrines are also important in this regard. I find that almost all the major mosques have been converted into community centers. The Jama Masjid of Katmandu, which has a residential school and a large commercial space in the center of Katmandu city, is a revealing example of this conversion. This Mosque had a very low profile in the past. However, in the 1990s it emerged as a symbol of Muslim presence in the city. Although, the Mosque committee is technically not associated with any political groups, it is a meeting point for most of the Muslim activists. Precisely for this changed symbolic character, the right wing Hindu groups often see the Mosque as a Muslim center of some kind. This may be a reason behind various attacks on this mosque in last few years.

²² The role of Maoist led Janandolan is very crucial here. My fieldwork reveals that the Maoists encouraged various ethnic groups and minorities to make identity based political claims. It is true that some political outfits like Sadbhavna Party was already making demands for Madhesies, the Maoists transformed the nature of these forms of minority politics.

ajaties	imposition of dominant culture and language. Under-representation and engineered census.	society, ethnic and regional autonomy and sub-autonomy with right to self-determination.	levels and factual census study.
Dalits	Caste –based social discrimination and untouchability, atrocities and engineered census.	Elimination of the practices of Caste –based exploitation.	Proportional representation and affirmative action especially reservation in legislative assemblies, educational institutions and jobs and factual census.
Linguistic minorities	Discrimination between national languages and regional languages, mother tongue education up to grade five and engineered census.	Three-language formula (mother tongue, national language, international language) needs to be implemented.	Constitutional and legal equality for the protection of linguistic minorities, endorsement of the national declaration of mother tongue speakers of 2001 and factual census study.
Religious minorities	Domination of Hinduism, Direct and indirect discrimination and engineered census.	Protection of religious minorities and special provision for their upliftment.	Legal and constitutional recognition of religious minorities, Political representation, affirmative action especially in relation to reservation in jobs and educational institutions and factual census study.
Madhesies and regional nationalities	Hegemony of Nepal language and culture, uneven distribution of resources and treatment as second-class citizens.	One madhes-one pradesh for adequate political representation and regional harmony.	Citizenship certificates need to be distributed and affirmative action for regional equality.
Gender	Patriarchy, all forms of gender discrimination and violence against women.	Gender equality should be recognized as a principle for all affirmative action policies and diversity among women in terms of caste, ethnicity, language and culture need to be recognized for a diversified agenda of establishing gender equality.	Political representation, sincere application of Convention on Elimination of All Forms of Discrimination Against Women (CEDAW).

Table 5: Changing meanings of inclusiveness in Nepal in the Official Discourse

Features	1948	1951	1959	1962	1990	2007 (Interim Constitution)
	Traditional Rana Regime	Monarchy rule/King's government	Parliamentary Monarchy	Parliamentary Panchayat System	Parliamentary Democracy	
Inclusiveness	No mention of equality or non-discrimination.	Members of the Assembly were to represent different regions, classes and interests.	The king had to be an 'adherent of Aryan culture, No discrimination on the basis of religion, race, caste, sex, tribe was permitted, no person would be allowed to create enmity between classes.	Similar to the 1959 Constitution.	Similar to the 1959 Constitution on issues regarding equality and discrimination. Additionally all mother tongues and national languages were recognized. People were deemed equal 'irrespective of religion, race, caste or tribe. Nepal was recognized as a 'multi-ethnic, multi-lingual' country.	State to be restructured to do away with problems related to class, caste, religion and gender; mother tongues may be used in local officers.

These seemingly *secular issues* constitute a much larger scope for social intervention at different levels in Nepal. In fact, there is an inclination to create equilibrium among different competing identities based on caste, ethnicity and regional affiliations. In order to respond to this overwhelmingly secular agenda of inclusiveness, Muslim groups are also trying to articulate their demands in a politically acceptable secular language of representation and rights.

The second important characteristic of the present debate is related to the notion of distinctiveness.²³ We find that the regional and ethnic groups' demand special treatment precisely on the basis of their unique and distinctive cultural identities. In this sense, marginalization is linked to the cultural and political under-representation. The argument that one group is socially and economically backward primarily because its distinctiveness is not recognized, seems to be the core thesis of the inclusiveness policy of the state. From the point of Muslim groups, this emphasis on distinctiveness could also be interpreted in terms of religious uniqueness. Muslims have been historically recognized as a distinct religious group in Nepal in terms of their customs and tradition. Precisely for this reason, Muslim groups highlight this religious and cultural distinctiveness to make a case for adequate political representation and affirmative action.

Political Manifestation of Muslim Inclusiveness: the question of constitutional recognition

The rise of multi-party democracy encouraged all the social groups to participate in political process. Muslims also joined various political parties. According to the official data, 31 Muslim candidates fought elections in 1991 out of which five Muslim MPs were elected. In fact, Muslims occupied important political posts such as Cabinet Minister and leader of the Lower House of the Parliament for the first time. The Nepali Congress and the United Communist Party of Nepal distributed tickets to Muslims as part of their larger mobilization drive. These political parties also encouraged Muslims to form various socio-political pressure groups. This development later paved the way for the establishment of 'Muslim wings' in almost all the major political parties

Table 6: Political Representation of various groups

²³ The INGOs and funding agencies play a crucial role in determining the agenda of inclusiveness in Nepal. Most of the INGOs in Nepal fund social projects related to ethnic identities. This specific nature is also reflected in the social science research in Nepal. The demands and rights of ethnic minorities or *Janjaties* dominate the popular discourse of social science research as well as the policy framework in Nepal. In this situation Muslim groups also try to acquire a space in this discourse of rights and dignity simply by highlighting their distinctiveness.

Caste/ Ethnicity	Population (%)	House of Representatives (%) of 205 seats			CA	
		1991	1994	1999	No.	%
Hill high caste	30.8%	56%	63%	60%	200	33.3%
Hill ethnic	28.5%	24%	18%	20%	159	26.5%
Madheshi caste	14.8%	9%	11%	14%	123	20.4%
Madheshi ethnic	8.7%	9%	7%	5%	53	8.8%
Muslim	4.3%	2%	1%	1%	18	3.0%
Dalit	12.9	0.5%	–	–	48	7.9%
Total	–	–	–	–	601	100%
Women	50%	3%	3%	6%	197	33.77%

Source: Constituent Assembly website

Muslim groups establish a clear link between inclusiveness and constitutional recognition. I find that almost all the Muslim groups agree that Muslims should be given a Constitutional recognition. Although there is a debate on the modes and strategies by which this objective could be achieved, it is strongly claimed that Muslims must have a well-defined legal-constitutional status in the future Constitution of Nepal. My fieldwork reveals that Muslim groups underline two identifiable spheres for achieving this objective- proportional representation and affirmative action.

It is argued that adequate political representation will safeguard the religious and cultural rights of Muslims living in different parts of Nepal. This demand is very much rooted in the current political scenario. Proportional representation is an accepted and legitimate mode to include hitherto marginalized and excluded social groups in the political system. Article 3 of the Interim Constitution of Nepal (2007) says:

“Having multi-ethnic, multi-lingual, multi-cultural characteristics with common aspirations, and being committed to and united by a bond allegiance to national

independence, integrity, national interest and prosperity of Nepal, all the Nepali people collectively constitute the nation.”

The formation of the Constituent Assembly further elaborates this aspect especially in relation to proportional representation. For example, there are two forms by which members are elected for the Constituent Assembly – the first ‘past the post system’ from each geographical constituency (Art. 3a) and the second ‘proportional representation system’, which treats whole country as a single constituency. This arrangement is further explained in Art. 63(4), which says:

“ The principle of inclusiveness shall be taken into consideration by political parties while selecting candidates... the political parties shall ensure the proportional representation of women, Dalits, oppressed communities/indigenous groups, backward regions, *Madhesis* and other groups, in accordance with the law.”

Thus, proportional representation is accepted as a viable political tool to ensure inclusiveness of all marginalized groups. Muslims, who have been historically recognized as a social group in Nepal, also find the idea of proportional representation politically appropriate and acceptable to articulate their political claims.

The Muslim demand for proportional representation also underlines a crucial gap in the existing legal constitutional framework. The Interim Constitution does not recognize the multi-religious character of Nepalese society. The Fundamental Rights given in the Constitution do not directly address the question of religion and faith. Although there is an overarching right to religion (Art. 23), which says: “every person shall have a right to profess, practice and preserve his or her own religion as handed down to him or her from ancient times paying due regard to social and cultural traditions”, there is no provision for the protection of minority religions.

The other set of rights, particularly the right to social justice, also do not look at the question of religious minorities. For example, Art. 13 (3) of the Fundamental Rights says:

“The state shall not discriminate among citizens on grounds of religion, race, caste, tribe, gender, origin, language or ideological conviction or any of these. Provided that nothing shall be deemed to prevent the making of especial provision by law for the protection, empowerment or advancement of women, Dalits, indigenous ethnic tribes (Adivasi Janjati), *Madhesi* or farmers, laborers or those who belong to a class, which is economically, socially or culturally backward, or children, the aged, disabled or those who are physically or mentally incapacitated.”

It is very much clear that although the state shall not discriminate on the basis of religion, it shall not make any special provision for the inclusion of religious minorities. Thus, the state shall approach the question of exclusion in secular terms through the categories of caste, class, region, ethnicity and gender. In this sense, religion is not considered to be a legitimate category of social justice. Therefore, the Muslim demands for constitutional recognition is a twofold demand: (a) it claims that religious minorities need to be recognized as a stakeholder in the wider constitutional agenda of inclusiveness. (b) Muslims, being a distinctive religious ethnic social group, need to be identified as a legal-constitutional category.

Representation and inclusiveness: the question of enumeration

The demand for proportional representation is very much related to the enumeration of different ethnic and religious minorities. All the ethnic and religious minorities, specifically Muslims, claim that the process of enumeration in Nepal has always been politically motivated since the first census in 1951.²⁴ I find three different arguments in this regard.

²⁴ The non-Hindu groups and Janajatis have very strongly asserted against the census data and official reports, which have, according to them, deliberately reported a high percentage of Hindu population in Nepal. Especially people belonging to Buddhist and Kirant religion, which have been considered as branches of Hinduism, are demanding for a separate identity as a religious community in order to achieve constitutional and legal religious equality in Nepal. The 1991 census was considered as a step forward in the direction of the identification and recognition of different religious and ethnic identities as it, for the first time, showed a decline in Hindu population from 89.5% to 86.51% in 1981 and 1991 respectively. The recent census 2001 records a major decline by showing only 80.6% of Hindu population (Dastider, 2007, p. 80-81). Furthermore, the census has identified eight religious communities. Hindu, Buddhist, Islam, Kiranti, Christian, Jain, Sikh and Bahai. According to the Census, non-Hindu religious communities form

A section of Muslims claim that Muslims constitute 10-12% of the total population of Nepal. According to them Muslim population is spread in nearly all the 74 districts. However, the recent census report 2001 shows that there are only 4.27% Muslims in Nepal. Although the recent census records an increase (3.5% to 4.2% in 1991 and 2001 respectively), the Muslim groups and the common Muslims assert that the government officials intentionally did not record the exact Muslim population simply to undermine the existence of the large number of Muslims (Group Discussion and individual interviews).

Table 7 Population by Religion

Religion	1952/54	%	1991	%	2001	%	Increase/Decrease 1991-2001	%
Hindu	7,138,392	88.8	15,996,953	86.5	18,333,121	80.6	2,333,168	14.6
Buddhist	707,104	8.6	1,439,142	7.8	2,442,520	10.7	1,003,378	69.7
Islam	208,899	2.6	653,218	3.5	954,023	4.2	300,805	46.0
Kirant			318,389	1.0	818,106	3.6	499,717	157.0
Christians	-		31,280	0.2	101,976	0.5	70,696	226.0
Jain			7561	0.0	4108	0.0	-3,453	-45.7
Sikh			9292	0.1	5890	0.0	-3402	-36.6
Others	6840	0.0	17124	0.1	86,080	0.4	68,956	402.7
Unidentified			18138	0.1	-	-	-	

Source: Bhattachan, Krishna. 2008. *Minorities and Indigenous People of Nepal*, NCARD. Kathmandu. P.19.

There is another argument, which questions the inefficiency of census data collection exercise primarily on technical grounds. I was informed that the staff, involved in census surveys, was not properly trained in dealing with the technicalities of census survey. They usually relied on traditional community structures to collect data on individual

19.4% of the total population of Nepal (Bhattachan, 2008, p. 18 and Gurung, 1985 p. 24). This data reveals the specific nature of minority-majority politics in Nepal, which gives a new dimension to the demands of proportional representation and reservation for different social groups. All the ethnic, religious and linguistic groups are demanding for proper enumeration. They argue that the agenda of one unified Nepalese identity has not only ignored the cultural, ethnic and religious diversity of Nepalese society but has also deprived them from protecting and promoting their culture and heritage.

basis. For example, in the villages the village head was contacted for collecting data for the entire village population. In addition in many cases, it was almost impossible to collect individual responses. As a result, I was informed that the exact population figures of different communities could not be recorded.

The third and most important argument in this regard is related to the self -perception of communities. I was told that people preferred to mention their caste or ethnic origin as the marker of their prime identity when enquired for religious affiliations. In case of Muslims the regional identity of *Churaute* Muslims created a technical problem in their identification as a Muslim religious group (Ansari, 2007, 150-151). I also find that in many cases my respondents identified themselves with their caste and/or their affiliation with a particular Islamic sect(s). This aspect was also mentioned in the SDSA report. Moreover, the categories used for collecting data were inadequate to record the complex identities of different social groups including Muslims (Sanjay Rana, 2009).

These inadequacies cannot merely be seen in simple demographic terms. The Muslim groups, like other social groups, find deep political meanings of the process of enumeration. The census data is identified as a major political tool to make legitimate claims for getting involved in wider debate on inclusiveness. .

Table 8: Main Muslim groups and leaders of contemporary Nepal

Name	Type	Political Affiliations	Contact Person
Nepal Muslim Ettehad Sangthan – 1995 in Nepalganj	Political group	Communist Party of Nepal (UML)	Siraj Farooqui and Junaid Ansari
Nepal Muslim Mukti Morcha-	Political group	CPN (Maoist-Prachand)	Athar Hussain Farooqui-
Nepal Muslim Federation	Political group	Communist Party of Nepal (United)	Mohammad Abbas Engineer
All Nepal Muslim Samaj Sewa Sangh - 1995 –in Biratnagar	Political group	Nepali Congress (Madhav Nepal)	Abdul Sattar
Madheshi Adhikar Munch	Political group	Broke off from Madhesi Janadhikar Forum	Karima Begum (First Elected MP) and Naseer Siddiqui

Nepal Muslim Women Society	Women's organization	Independent	Seema Khan (Freelance Journalist)
Fatima Foundation	Women's organization	The organization works as an independent agency. Though Mohammadi Siddiqui is an active member of NC -	Mohammdi Siddiqui (CA member)
Jamiatul-Ahle Hadith	Socio-religious group		Maulana Ata-ur-Rahman-
Muslim Manch Nepal	Socio-religious group		Attaullah Khan

Inclusiveness and the question of affirmative Action

The demand for affirmative action is the second important aspect of contemporary Muslim politics. In general Muslim political groups argue that political representation without adequate Muslim representation in jobs and educational institution will be irrelevant. Muslims require state support to deal with their educational backwardness. It is claimed that the political representation will help Muslims to have influence on the policies of future state, while the affirmative action will help Muslims to get some advantages to develop as a social group.

However, the Muslim perspectives on affirmative action are quite unique. The term 'affirmative action' is not defined simply in terms of reservation in jobs and educational institutions. Rather, it is conceptualized in relation to Muslim distinctiveness as a social group. The famous Six-Point Agreement (*Che-Bundi Samjhota*) between a few Muslim groups, particularly associated with the Left parties, and the interim government of Nepal on 16 March 2009, is a good example in this regard.²⁵ This agreement has following six points:

²⁵ This agreement has been the most important official documents in the Muslim political discourse so far. In fact this has become a point of reference for all the major political groups, including its opponents. Athar Faruqi, and Taj Mohammad Mian associated with the United Muslim National Struggle committee,

- The government will take necessary legal and constitutional steps to recognize the distinctiveness of Muslim identity.
- The government will take initiative to insert word *Muslims* in the Interim Constitution of 2007 (Art.33) to protect their rights through proportional inclusiveness.
- The government will constitute a Muslim Commission to look after the Muslim socio-economic issues; and a permanent *Hajj* Committee and Madarsa Board shall also be constituted.
- Government will consider the Muslims demand that Eid, Eid-ul-zuha, Prophet Mohammad's birthday and Mohurram should be declared as public holidays.
- The government will make appropriate arrangement for fair census in relation to social groups.
- The Muslim groups shall give up the agitation and shall help the government to prepare a people's oriented Constitution.

played a crucial role in working out the modalities for this agreement with the government represented by Peace and Reconstruction Minister Janardan Sharma Prabhakar. The agreement was the outcome of a few immediate political events. The leaders of Tharu community were protesting for the inclusion of Thurs in the constitution. The Muslim leaders supported their protest and joined hands to put forward their demands. After intensive discussion with the government, a consensus emerged on six points. This is the reason why this agreement is called six-points agreement. The agreement primarily underlined the commitment of the government to include Muslims in the Constitution as an inseparable political identity. However, the debatable demand of Family Law is not a part of this agreement. That is why Muslim political leaders despite their internal ambiguity on the nature of family law, keep pressing the government to recognize family law as a symbol of Muslim distinctiveness in Nepal. During the recent debate on the formation of Hajj Committee, Abdul Sattar (Nepal Muslim Sangh, which is associated with the NC) raised the question of family law and its unclear status under the six-point agreement (<http://www.asianews.it/index.php?l=en&art=14800&size=A>). It is important to note that the Draft Paper prepared by the Minority Rights Committee of The Constituent Assembly do recognize all the points mentioned in the Six-point agreement (Draft paper, Minority Rights Committee, 2010)

नेपाल सरकारद्वारा गठित सरकारी वार्ता टोली र संयुक्त मुस्लिम राष्ट्रिय संघर्ष समितिको वार्ता टोली बीच आज २०६५ साल चैत ३ गते देहाय बमोजिमको सहमति भएको छ ।

१. मुस्लिम लगायत देशका सम्पूर्ण आदिवासी, जनजाति, मधेसी, थारु, दलित, अल्पसंख्यक समुदायको आ-आफ्नै विशिष्ट पहिचान छ भन्ने विषयमा नेपाल सरकार स्पष्ट छ । तसर्थ उनीहरूको स्वतन्त्र पहिचानमा बाधा पुऱ्याउने वा ओभरलप पार्ने विद्यमान संवैधानिक र कानूनी व्यवस्थालाई आवश्यक प्रक्रिया पूरा गरी संशोधन गरिने छ ।
२. नेपालको अन्तरिम सविधान, २०६३ को धारा ३३ को खण्ड (घप) मा उल्लिखित "मुलुकको राज्य सत्तानाका सबै अङ्गहरूमा मधेसी, दलित, आदिवासी, जनजाति, महिला, मजदुर, किसान, अपाङ्ग, पिछडिएको वर्ग र क्षेत्र सबैलाई सामाजिक समावेशीको आधारमा सहभागी गराउने ।" भन्ने कुरामा प्रतिबद्ध हुँदै मुस्लिम लगायत देशका सम्पूर्ण आदिवासी, जनजाति, मधेसी, थारु, दलित, अल्पसंख्यक समुदायको राजनैतिक, आर्थिक, सामाजिक, सांस्कृतिक, शैक्षिक अधिकार सुनिश्चित गर्न नेपाल सरकारले आवश्यक पहल गर्नेछ ।
३. नेपाली मुस्लिम समुदायको विविध क्षेत्रको उत्थान तथा विकास, स्थायी हज कमिटी गठन, मदरसा बोर्ड गठन लगायतका समेत कार्य गर्न आवश्यक प्रक्रिया पूरा गरी राष्ट्रिय मुस्लिम आयोग अखिलम्ब गठन गरिनेछ ।
४. हजारत मुहम्मद सल्लल्लाहु अलैहि व सल्लमको जन्मदिन एवं मोहर्रम पर्वहरूमा सार्वजनिक बिदा सम्बन्धी भाग बारे नेपाल सरकारले सकारात्मक रूपमा विचार गर्नेछ ।
५. नेपाल सरकारको प्रत्येक दश वर्षमा राष्ट्रिय जनगणना गर्ने नीति अनुरूप वि.सं.२०५८ सालमा भएको जनगणनाको प्रतिवेदन सार्वजनिक भइसकेको छ । आगामी समयमा जनगणना गर्दा मुस्लिम लगायत देशका सम्पूर्ण आदिवासी, जनजाति, मधेसी, थारु, दलित, अल्पसंख्यक लगायतका समुदायको छुट्टै सांख्यिक र अन्य विवरण स्पष्ट हुने गरी जनगणना गरिने विषयमा सरकार प्रतिबद्ध छ ।
६. देशको शान्ति प्रक्रियालाई निष्कर्षमा पुऱ्याउन तथा नयाँ जनमुखी सविधान निर्माण गर्न नेपालका सम्पूर्ण मुस्लिम समुदायको तर्फबाट प्रतिबद्धता व्यक्त गर्दै संयुक्त मुस्लिम राष्ट्रिय संघर्ष समितिले घोषणा गरेको संघर्षका सम्पूर्ण कार्यक्रमहरू फिर्ता लिएको छ ।

संयुक्त मुस्लिम राष्ट्रिय संघर्ष समितिको वार्ताटोलीका तर्फबाट

अताहर हुसेन फारुकी
वार्ताटोली संयोजक

साज मोहम्मद भियाँ
केन्द्रिय संघर्ष समिति संयोजक

सरकारी वार्ताटोलीका तर्फबाट

जनार्दन शर्मा "प्रभाकर"
वार्ताटोली संयोजक
तथा
मन्त्री, शान्ति तथा पुनर्निर्माण

Figure 2: Six Points Agreement

A close reading of this agreement reflects two kinds of demands- legal sanctioning for Muslim religious distinctiveness and the constitutional protection for the wider development of Muslims as a community. In fact, except the demand to have a 'Muslim Commission', other points in this agreement are of very populist nature. The establishment of a Madarsa Board and *Hajj* Committee, constitutional recognition to Family Laws, declaration of Muslim festival as public holidays are related to question of Muslim presence. Even the demand to have a Muslim Commission is highly ambiguous because it does not ensure that Muslims shall get any kind of benefits in jobs and educational institutions. So, the affirmation action in this sense is completely rooted in the discourse of community rights.

The existing data on Muslim backwardness needs to be examined in this regard. The social indicators of health, employment and education reveal that the condition of Muslims in comparison to the average national status is very backward. The life expectancy among Muslims is 61.0 years in comparison to average national age of 63.7 years. Quite similarly, the education attainment level of Muslims, which is 0.238 is also far behind the national average of 0.421. Muslims also lag behind in terms of adult

literacy. There are only 30.0% literate Muslims in Nepal while the national adult literacy average is 52.4%. Most strikingly, economic condition of Muslims is quite alarming, which is in many cases, according to the official records and Muslim leaders, is worse than Dalits in Nepal. There are 41% Muslims living below poverty line in Nepal in comparison to the national average of 31%. Moreover, the national per capita income of Muslims is 10,200 (Nrs.), which is far behind the national per capita income of 15,000 (Nrs.) of average Nepalese citizens. While, if we make a comparison in the national per capita consumption, the gap is quite similar. The average consumption on part of Muslims is 10,909 and the national average per capita consumption is 15,848.

Table 9: Social Status of Muslims in Nepal

No	Item	Muslim	Nepal
	Human Development Index	0.509	0.401
1.	Life Expectancy	61.0	63.7
2.	Income index	0.3648	0.4624
3.	Adult literacy	30.0	52.4
4.	Educational Attainment	0.238	0.421
	A. Never attended	62.4	44.0
	B. Grades 1-4	24.7	24.9
	C. Grades 5-10	11.0	24.6
	D. SLC and above	1.7	6.7

Source: UNDP Nepal 2009. Nepal Human Development Report 2009, Kathmandu: UNDP Nepal: DFID and World Bank. 2006. Unequal Citizens. Kathmandu: DFID and World Bank. Modified version of the table used by Krishna Hachhethu, Social Exclusion and Nepali Muslims: A Case Study of Banke District, *Contribution to Nepalese Studies*, Vol. 36, especial issue 2009. P.85.

Table 10: Economic Condition of Muslims in Nepal

No	Item	Muslim	Nepal
	Economic Development		
1.	Poverty reduction from 1995-2003	2.4	11.0
2.	People below poverty line	41	31
3.	Average per capita income (Nrs.)	10,200	15,000
4.	Per capita consumption	10,909	15,848
5.	Land ownership	-	-
	A. Own Land	64.2	70.4
	B. Own + Rented	25.7	23.4
	C. Rented only	10.1	6.3

Source: UNDP Nepal 2009. Nepal Human Development Report 2009, Kathmandu: UNDP Nepal: DFID and World Bank. 2006. Unequal Citizens. Kathmandu: DFID and World Bank. Modified version of the table used by Krishna Hachhethu, Social Exclusion and Nepali Muslim: A Case Study of Banke District, Contribution to Nepalese Studies, Vol. 36, especial issue 2009. P.85.

This data exemplifies Muslim backwardness quite clearly. The demands for affirmative action raised by different Muslim political leaders do not correspond to the socio-economic backwardness of Muslims in Nepal. It is true that Muslim backwardness has been an important part of Muslim political discourse in Nepal and almost all the major political figures try to articulate Muslim issues in the wider realm of backwardness, the question of Muslim identity occupies the central stage. This leads us to a complex equation. The six-points agreement was an outcome of a certain kind of left oriented politics, which claims to be committed for the material upliftment of Muslims in Nepal. So, why does left oriented Muslim politics focuses on identity issues instead of apparent socio-economic questions of backwardness? To find out an answer to this problematic

question, we need to look at the points of agreement and disagreement among different Muslim political group and the social basis of existing Muslim political consensus.

IV

Internal Contradictions and the making an ‘informal’ Muslim coalition

Muslim political diversity is a highly ambiguous and under-researched area.²⁶ Despite the fact that Muslims are seen as a plural and diversified social group, the present debate on inclusiveness in Nepal somehow do not look at the diversity of Muslim political groups. There is an obvious reason behind it. The idea of inclusiveness, as pointed out earlier primarily rests on the distinctiveness of identities of marginalized groups and sections. In this context, the question of political recognition is posed in a far more serious language of rights and privileges. The internal complexities of identities or ‘minorities within minorities’ are being deliberately overlooked in order to make larger political claims. However, this intentional ignorance of internal diversity of social groups particularly in case of Muslims does, not allow us to pay special attention to the complex social formation of Muslim politics, internal contradictions among Muslim stakeholders and everyday political tussles, which play a very crucial role in the actual articulation of political demands.

I identify four such areas, which mark the internal making of Muslim politics in Nepal:

(1) The debate on the inclusion of Muslims in the constitution

(2) Regional autonomy and Muslim unity

(3) Gender justice and Family Law

The debate on the inclusion of ‘Muslims’ in the future constitution

Our discussion in the previous section clearly shows that the Interim Constitution has no special provision for religious minorities. In this context, the inclusion of Muslim as an ethnic identity is highly debatable. We find two very different positions in this regard.

²⁶ Mollica Dastider’s work is an exception in this regard.

The *Muslim Mukti Morcha*, associated with the Communist Party (Maoist-Prachand), advocates that Muslims should be included in the Constitution as ‘Muslim Community’. Ather Faruqi, the chairman of *Muslim Mukti Morcha*, argues that the term ‘Muslim’ is an overarching concept, which could provide legitimacy to all the issues and problems that Muslim communities face in Nepal. In addition, the term ‘Muslim’ also reflects the most fundamental identity of all those social and cultural groups who prefer to call themselves Muslims and profess various forms of Islam. Faruqi further pointed out that, ‘Muslim is an ethnic identity, which is inextricably linked to Islam religion thus the question of Muslim backwardness need to be examined by recognizing Muslim as a political community’. Siraj Faruqi, the chairperson of *Nepal Muslim Ettehad Association*, the first Muslim political organization, which is associated with Communist Party of Nepal (CPN-UML), argues on the similar lines. According to him, ‘we do not call ourselves a religious community. Muslim is an ethnic identity. The active participation of Muslims in the *Janandolan* shows that they participate in political processes without giving up their basic Islamic identity. We are to be included in the mainstream of Nepal through the development of our own community in transparent and accountable manner’. Faruqi further argues, ‘the word Muslims need to be inserted in the constitution particularly where the rights of other ethnic and caste identities are mentioned’. Mohammad Abbas Engineer, Chairperson of *Nepal Muslim Federation* (United Communist Party of Nepal) also emphasizes that the Muslim identity is an ethnic identity, which need to be recognized as a constitutional category. Thus, this *left-liberal position* stresses upon the specific context of Nepal and conceptualizes Muslims in ethnic terms.

A section of Muslim leaders particularly associated with Nepali Congress adhere to a predominantly *minority rights perspective*. Abdul Sattar, the Head of the Muslim wing of Nepali Congress (Nepal Muslim Sangh) argues that Muslims should constitutionally be categorized as a religious minority. He further explains that the status of religious minority to the Muslims of Nepal will not only put the demands of the community in secular framework of Nepali Constitution but also provide them an equal platform with other religious minorities. Furthermore, Sattar argues, ‘the status of a religious minority

will also be in accordance with the UN declaration on minority rights. In this sense the rights of Muslims will very well be defined and protected according to the international legal covenants in which Nepal is a signatory.’

What does these two positions show? A close reading of these two arguments suggest that the left-liberal perspective as well as the minority rights perspective want to conceptualize Muslims primarily in secular terms. However, the meaning of ‘secular’ is very different. For the left-liberal position Muslim community is an ethnic-cultural construct, which needs to be defined as a community primarily on the basis of tradition, culture and customs. The religion in this framework is taken as a form of belongingness—an association, which has a predominantly cultural overtone. In other words, Islam is taken as an important source of Nepalese Muslim culture and therefore the Islamic distinctiveness of Muslims is projected in cultural terms. On the other hand, the minority rights perspective does not make any conceptual difference between religion and culture. For them, it seems, right to religion needs to be elaborated in such a way that religious minorities could find some sort of legal protection.

Regional autonomy and Muslim unity

Regional diversity of Muslim community is also an important point of debate. I find two different positions on this question. According to Karima Begum (the first elected Muslim women MP in the Constituent Assembly, who also represents *Madhesi Janadhikar Forum*) Muslims should be included in the constitution as Madhesies. She argues, ‘Brahmanical Hinduism intends to divide *Madhesies* into Muslims and other *Madhesies*....Muslims will not tolerate this conspiracy. Their participation in the *Madhesi* movement will cement the Madhesi unity and make Muslims politically conscious’. She very categorically claims that *Madhesi* movement should be seen merely as a short-term strategy for carving out a larger space for Muslims in long run. Thus, Begum demands ‘Muslim should have a separate quota within the category of Madhesi like Dalits and Janajatis.’ Criticizing the six-point agreement, Karima Begum argues that the political leaders of Terai region were not involved in this endeavor. For that reason, this agreement does not reflect the aspiration of the entire Muslim community of

Nepal (Interview, Karima Begum). This is a complex position. On the one hand, it tries to emphasize on the uniqueness of *Madhesi* Muslims and attempts to mobilize Muslims for the regional/economic autonomy of the entire Terai region.²⁷ On the other hand, their position on the rights and demands of non-Terai Muslims is highly ambiguous. It seems that they are not fully convinced about their future political strategy to find out some space for much talked about notion of Muslim unity.

The left liberal groups as well as the Nepali Congress takes a different line on this question. Athar Faruqui and Siraj Faruqui both support the Madhesi movement as a legitimate demand for regional autonomy and federalism. However, they do not want Muslims to be placed in the Madhesi category. According to Athar Faruqui, ‘when Maoists started their movement they were only talking about class struggle however, they realized that the issues of marginalized communities could not be resolved by focusing merely on the class question. This changed attitude paved the way for the formation of various Dalit, Madhesi, Karati and Limbu wings in the CPN(M). Initially Muslims were placed in the Madhesi Forum but when we explained that Muslims have got a very specific identity of their own, the Maoists decided to form a separate Muslim organization’. Siraj Faruqui and Abbas Engineer also endorse this position. They claim that bifurcation of Muslims into Madhesi and Non-Madhesi Muslims will affect the collective strength of Muslim community and will weaken the political prospects of Muslims in Nepal. Furthermore, as Abbas Engineer explained, Muslims, because of their religious identity, are in a much backward position in Madhes than others. They are economically and socially marginalized and have been a victim of exploitation by dominant class and caste groups. For example the Muslim landowning class is backward in comparison to the non-Muslim landowners, who predominantly belong to Yadav caste. In the backdrop of these factors, Engineer says, inclusion of Muslim in the Madhesi category is not going to help Muslims in any way. The Nepal Muslim Sangh makes two additional points in this regard. According to Abdul Sattar, the inclusion of Muslims in the Madhesi category will not ensure any kind of protection to and recognition of religious rights of Muslims. Moreover, the given reservation quota for Madhesies will be

²⁷ For a detailed discussion on the complex regional configuration as well as the religious character of Madhesi identity see Dastider, 2008, p.133-139.

highjacked by the dominant sections of Madhes. Consequently, Muslims will not get their due share. Thus, the Muslim leadership associated with Congress and left wings make a very clear distinction between regional autonomy of Madhes and the inclusion of Muslims

Table11 : Different positions and the modes to achieve the larger objective

Different Positions of Muslim Group				
Groups	Demand	Argument	Justification	Future Strategy
Muslim Mukti Morcha, Muslim wing of Communist Party (Maoist) and Ittehad, Muslim wing of Communist Party of Nepal United (CPN-UML) and Communist	Muslims should be included in the Constitution as 'Muslim Community' because Muslim is an ethnic identity.	The most appropriate way to accommodate the diversity of the Muslims of Nepal. The term 'Muslim community' also reflects the fundamental identity of all those social and cultural groups who prefer to call themselves	The distinctive identity of Muslims should be constitutionally recognized. More importantly the demands which are specific to Muslim community such as the establishment of Muslim commission, Muslim Family Law, Madarsa Board and so on will not get a legal status.	The power structure that exist within the community will be tackled strategically once the constitutional status is achieved especially in relation to women's rights, caste, equality and religious fundamentalism.
Kantama of Nepal, the (1st) elected	Muslims should get their due share in the larger	Muslims and profess is needed for the of Islam. the	Madhesi movement is a short-term strategy for	A political space needs to be created for Muslims so that specific Muslim demands such
Muslim women MF Nepali the Constituent Assembly, Muslim also represents Madhesi Janadhikar Forum	Muslims quota should be the same as they should be categorized as a 'religious rights' as a religious community.	The status of religious the Muslims to include Muslims of Nepal will be Muslims. However, in Muslim participatory framework of Ministry rights	Muslim interests large space for Muslim regime in Nepal. In addition, the empowerment of Madhesi Muslims will help in eradicating regional and democratize the internal structure of Muslim	Reservation in Jobs and development education get reservation framework of achieved. rights and few special provisions for Muslims.

		will empower them to become a pressure group.	community, which has been dominated by hill Muslims so far.	
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Gender justice, Muslim plurality and family law

The question of gender equality is an important issue in the contemporary Nepalese politics. The emerging gender discourse recognizes the multiple layers of women subjugation and exploitation and for that reason the liberation of women is seen in relation to caste, class, region and religion (See table). This is also evident in the case of Muslim women. The Nepalese Muslim women groups overwhelmingly demand that Muslims should have their own Family Law. This demand however, is quite paradoxical. The *shariya* laws (jurisprudence) known as Family Law in the Indian sub-continent ensures that the questions of marriage, divorce and inheritance should be settled on the basis of various forms of Islamic *shariyats*. Although different schools of Islamic laws have their own ways and mechanisms to deal with these matters, triple *talaq* (verbal divorce by husband in one go without any maintenance after three months) and polygamy among Muslims have turned out to be the most contentious issues in last few decades. The famous Shah Bano case in India is a revealing example in this regard.²⁸ So the question arises: why are Muslim women groups raising such a demand in Nepal?

The Fatima foundation is a good example to explore this paradoxical issue. Mohammadi Siddiqui, the founder and the chairperson of Fatima Foundation, whose family has always been associated with Nepali Congress in the past, started participating in public life after the death of her husband. She fought for Municipal Board elections in the mid 1990s and won with a majority. In course of time she formed a small organization named Fatima Foundation to fight for the rights of Muslim women in Banke district.²⁹ The organization

²⁸ For a detailed discussion on Shah Bano case see Bajpai, 2002.

²⁹ Being the only Muslim women, Mohammadi Siddiqui, formed the Women Welfare Association under the provisions of Amnesty International for women groups initially with 10-12 Non-Muslim women. Gradually, the social discrimination and verbal abuses against Islam and Muslims by non-Muslims on the question of backward position of women in Muslim community persuaded her to review Islamic principles and form a separate organization for the empowerment of Muslim after 10 years of her active involvement in Women Welfare Association. The Asia Foundation helped Mohammadi to publish books and material in

became very popular in a short span of time. Women from all communities started participating in activities organized by Fatima foundation. Subsequently, the already functioning INGOs identified Fatima Foundation as an important partner to work at the grassroots level especially among Muslim women. This instant success on the contrary, became a problem for Fatima Foundation. The *ulemas* of Banke district started criticizing the organization and alleged that Mohammadi was misleading Muslim women. They claimed that the activities of the organization would have adverse effects on the social fabric of Muslim society. They even criticized her categorically in their speeches in Juma congregational prayers and advised the devotees to boycott her family and organization. At this point of time, Mohammadi Siddiqui participated in an international conference on gender justice in US. This journey to US gave another strong reason to *ulemas* to ignite the situation. They declared that Mohammadi's activities were against Islamic principles. They even spread rumors that Mohammadi was actually trying to mutate Quran by removing a sizeable portion from it and that she advised Muslim women to pray only for three times a day instead of five times. They issued a *fatwa* to kill Mohammadi. In effect of these rumors and the *fatwa*, a group of Muslim community even attacked her organization's office in Nepalganj (Interview with Mohammadi Siddiqui and Memoona Siddiqui, Group Discussion with local women volunteers).

According to Mohammadi, she, strategically, did not stand against these *ulemas* directly instead she invited some 'soft' *ulemas* and began a series of dialogues with them. She also published a number of small booklets and books with the versus of Quran to not only justify her activities in the fold of Islamic principles but also to raise awareness among Muslim women about their rights given by Quran and Islamic shariyats. As a result, things started changing quite speedily. The religious personalities started participating in the meetings of Fatima Foundation and made statements in her support. Consequently, the criticisms against Fatima Foundation died down completely and a number of Muslim women became its members. Now the Foundation has expanded its scope and fighting for the rights of all Muslim and non-Muslim women in Nepal.

Nepali as well as in Urdu language and to propagate the actual progressive interpretation of Islam and *Shariya*. Her book *Islamma Mahila Adhikar* (Rights of women in Islam) is one of the famous publications, which provides an alternative interpretation of Islamic principles.

The story of the Foundation raises a question: why did *ulemas* agree to the arguments given by Fatima Foundation? During the fieldwork I found that the question of state's recognition has become an important factor to assert some kind of authority in contemporary Nepal. In recent times, all sections of Nepalese society have been invited for 'dialogues' not only by the government(s) but also by the INGOs. Ulemas were also invited in these dialogues for discussing and consulting the matters of religious importance. (Seema Khan and Roshni Karmacharya).³⁰ This instant recognition not only helped *ulemas* in acquiring some sort of political patronage but also established their social status as recognized religious scholars. These *ulemas* have gradually become an entry point for interaction with the community especially for INGOs. I discovered during the fieldwork that most of the leading *ulemas* are either associated with a political party or with leading INGOs mainly in Banke and Rotrahat region.³¹

The participation of *ulemas* in secular activities and even in secular politics on the one hand and the apparent religious orientation of leading women groups on the other, have helped these forces to come together. The *ulemas* gave their tacit consent to organizations such as Fatima Foundation to send a clear message to the state and INGOs that they are open to accommodate emerging issues of inclusiveness into their fold. While the women groups found a relatively smooth level playing ground at the local level with the help of religious leaders.

³⁰ There are other organizations run by Muslim and non-Muslim women and the INGOs, which also raise the question of religious fundamentalism. Interestingly, these organizations have strategically invited religious heads like Mahants, ulemas and gurus to get a religious sanctioning to the discourse of women's empowerment. I found that this strategy works in two ways; first, it helps the women's organizations to get a kind of legitimacy against all sort of possible religious fundamentalism. Secondly, it helps to mobilize women effectively in different communities and to fight against patriarchal values. More importantly, almost all the leading Muslim women's groups emphasize on Islamic values and place their agenda within the larger discourse of religion. In fact, I do not find any Muslim women group, which opposes the Islamic principles.

³¹ Interestingly, I find that ulema are an important part of INGOs now. I met Maulana Qayyum who works with UNESCO at Banke UNESCO Club, Nepalganj. In addition, ulemas have also started supporting various secular interests based Muslim organizations. For example Maulana Atta-ur-Rehman, the supreme head of Nepal Jamiat Ahle –Hadis is an active member of an independent social organization called Nepal Muslim Nagrik Manch.

Let us now move on to the question of family law to elaborate this discussion. Constitutional recognition to the customs and traditions of Muslims is one of the most prominent demands of Muslim leaders in Nepal.³² There is a strong argument that at, like marriage registration, issues concerning the divorce, inheritance and other questions of disputes should also be settled according to Islamic family laws.³³ In this sense, the limitations of existing laws, which do not allow Muslim community to tackle the issues of disputes and inheritance, is stridently questioned.

There are four different positions on the demand for family law.³⁴ The women groups focus on rational and progressive meanings of Islamic principles. Shariyats, according to them, are more progressive than modern laws, particularly in relation to the right to inheritance. Although, these groups do not have any clear position on the nature of proposed Islamic family laws, there is a consensus that such laws should be adopted according to the requirement of Nepalese Muslim community. According to Mohammadi Siddiqui, ‘Malaysian experiments with Islamic laws especially in terms of Women’s rights could be taken as a modal to accommodate Muslim women’s perspective in Nepal’ (Interview MS). These groups call for a constructive dialogue with ulemas and Islamic scholars and awareness drive to eliminate the established patriarchal perceptions about Islam within and outside the community.

³² The use of the term ‘family law’ instead of a legally more potent and *personal law* has become a political question for two possible reasons. (a) There is an apparent fear among Muslim leaders that if they use the term personal law, the dominant discourse of Nepalese politics might interpret it as an anti-national *separatist* tendency. Hence, they do not wish to replicate Indian debate on personal laws as separate Islamic laws in Nepal. (b) These groups seem to be searching for a Nepal specific terminology to bring Nepalese Islam into the discourse so that it could be incorporated in the national laws without any technical or political problem. (Int. Sattar)

³³ It is important here to clarify that the term shariyat represents a huge diversified set of commentaries written by Islamic scholars belonging to different Islamic sects over 1400 years. There are two main schools of Islamic law, the Sunnis and Shias. These two schools are further divided into a number of sub-sects. The Sunni school has four shariyats (Hanafi, Malaki, Shafei and Hanbali). There are three main shariyats in Shias (Imamia, Ismailiyas and Zaidyas). Apart from these shariyats, there is a sect called Ahl-e-hadith in South Asian Islam, which do not believe in these shariyats and draw the origin of Islamic jurisprudence directly from the recorded authentic hadith (sayings of the Prophet Muhammad) (Ahmad, 2000, 30-33). This huge shariyat literature suggest that Islamic law is a highly diversified phenomenon, which cannot be defined in simple religious principles because its contours are shaped by customs and traditions. Most of the Nepalese Muslims are Sunnis and there is a sizeable population who belong to Ahl-e-hadith sect.

³⁴ The other Muslim political leaders, though, do not have any clearly demarcated view; they follow the same line of argument in favor of Family Laws. The discussion is based on the interviews with leading Muslim leaders and organizations.

The left groups take a different line of reasoning. They claim that family laws represent the ethnic distinctiveness of Muslims in Nepal. In this sense, right to custom and heritage is elaborated to demand for separate family laws. The left groups situate the question of family laws in the backdrop of patriarchy and religious fundamentalism. In order to deal with these interrelated forms of exploitation through shariyat laws, they suggest that ulemas, Islamic scholars and Muslim political activists should come forward and prepare progressive family laws for Nepalese Muslims (Pratiendan MLF). Although the left groups do not have any clear answer in relation to the practical modalities of family laws, some of these groups claim that they are in a process of preparing a modal family law based on a critical and comparative study of various personal laws practiced in the sub-continent (Int. AF).

The Congress supported Nepal Muslim Sangh and a section of dominant ulema take a conventional minority rights position on this question. They argue that right to religion without shariya laws is meaningless in Nepal (<http://www.asianews.it/index.php?l=en&art=14800&size=A>).

Unlike left groups or women groups, Muslim Sangh wants a clear recognition of Islamic shariya laws without any modifications or reforms. According to Abdul Sattar the ulemas of all sects and sub-sects should be invited to discuss the possibilities of an overarching framework of family laws, which could be submitted to the government for further discussions and dialogue (Int. Sattar). The religious organizations and ulemas also adhere to this position. Emphasizing the universal applicability of Islamic principles, Ulemas claim that the social customs are mainly responsible for the predicaments of Muslims in Nepal. For them, if the Islamic principles are implemented in true sense of the term there will be an ideal Muslim society. Therefore, the Islamic teaching should be promoted at every level. The family law could be a point of departure in this regard, which will help Muslims to become a good Muslim and a faithful Nepali (Interview Attaullah).

Finally, the legal expert Tahir Ali Ansari, explains that the family laws are an intrinsic part of Muslims right to religion. He further argues that Nepalese legal system is still evolving; therefore, family laws need to be placed in the wider legal mechanisms so as to develop a Constitutionally acceptable and legally justifiable interpretation of religious practices. He cautions that Muslim leaders should understand that the family laws cannot and should not override the principles of constitutional law. The following table tries to answer the complexities of this equation.

This debate underlines three overarching points. First, family laws are not demanded as separate set of laws. Muslim groups very categorically emphasize on marriage registration, divorce and right to inheritance as ‘family laws’. In fact, there is a search for an appropriate term, which could describe these laws in the specific context of Nepal. This is a reason why the delicate and complex issues, such as triple talaq and polygamy, are not highlighted. Secondly, the family law is seen in terms of Muslim distinctiveness. The social order of Muslim communities, their costumes, traditions and religious values are distinguished as sources of a set of principles, which need to be recognized constitutionally. Thirdly, we find that the family laws are linked to the right to religion. All the groups argue that it expands and transforms the given right to religion into some sort of minority rights. Despite these agreements, there is an internal debate on the nature, mode of implementation and possibilities of reforms in the existing Muslim laws. Perhaps for that reason, the exact manner in which Family Law needs to be recognized and the mechanism by which it should be implemented is highly unexplored and unanswered areas in the current Muslim political discourse.

Table 12: Debate on Family Law

Social and political groups	Why Family Law	What kind of Family Law	What would be the legal status of Family Law	How to deal with the inherent complexities	Unanswered Issues
Women groups	Islamic Family Laws are more progressive than modern laws especially in	No clear answer but there is a consensus that it should be adopted according to the	No clear answer but they mainly support the idea of giving	No clear answer. Hoping that the dialogues with likeminded ulemas and Islamic scholars	Possibilities of reforms in Islamic principles particularly

	relation to the right to inheritance.	requirements of Nepalese Muslim society.	a constitutional recognition to the Family Laws of Muslims.	will help in presenting the actual progressive character of Islamic principles and <i>shariyats</i> .	related to the issues such as polygamy and triple Talaq.
Left-groups	Family Laws represent the ethnic distinctiveness of Muslims in Nepal. If Janajatis are given right the custom and heritage, Muslims should also have the right to follow their Family Laws.	No clear answer. Some groups are talking about a modal Family Law, which is being, prepared on the basis of a comparative study of Family Laws practiced in the sub-continent especially in India by leading Nepalese and Indian ulemas, Islamic scholars and Muslim political activists.	No clear answer but they mainly support the idea of giving a constitutional recognition to the Family Laws of Muslims.	No clear answer but in principle oppose all kinds of exploitations including patriarchy and religious fundamentalism. Likeminded ulemas, Islamic scholars and Muslim political activists should actually prepare the Family Law for Nepal. Most importantly the internal democratization and awareness of rights in the community is very crucial.	No clear and direct answer on the question of reforms but have a positives viewpoint on the possibilities of reforms if required.
Religious leaders, organizations and ulemas	Family Law is the extended version of their right to religion.	Family Laws should be based on Islamic <i>shariyats</i> in its existing form.	No clear answer but they mainly support the idea of giving a constitutional recognition to the Family Laws of Muslims.	There are no complexities in Islamic laws. The social customs are mainly responsible for the problems Muslims face. If the Islamic principles are implemented in true sense of the term there will be an ideal society. Therefore, the Islamic teaching should be promoted at every level.	The possibilities of any kind of reinterpretation of the existing patriarchal interpretation of Islamic principles and <i>shariyats</i> .
Legal expert	The fact that Muslims as religious-cultural community have distinct practices should	The specific Muslim issues such as marriage, divorce and inheritance could be included in the right to religion	Family Laws should come under right to religion, it should not contradict with the legal	Ulemas, Islamic scholars and Muslim political activists should deal with the question of multiple <i>shariyats</i> and other complex social issues	Long-term legal process and making of relevant by-laws in relation to Family

	be recognized. The Family Law is an intrinsic part of the right to religion and religious – cultural practices.	without making special category of separate laws.	system of the nation.	such as polygamy at the level of community. Internal democratization and awareness of rights in the community is very crucial.	Laws.
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This brings us to the question we raised in the beginning of this section. My discussions with all kind of social and political groups during the fieldwork reveals that the pressing need of ‘Muslim Unity’ is the crucial point where all these conflicting forces are compelled to come together and collaborate with each other. In this sense, social – economic status of Muslims in Nepalese society and the lack of constitutional recognition again becomes a defining factor for setting the ‘common minimum’ agenda of Muslim politics in wider sense.

V

Conclusion

In this final section of the paper I would like to recapitulate the discussion in order to develop a few arguments. The first two research questions are discussed in detail in the sections on legal constitutional discourse of Nepal. This discussion provides a larger context to situate the complexities of contemporary Muslim political discourse. Thus, the Muslim perceptions and internal debates are juxtaposed with the existing legal – constitutional framework in such a way that the Muslim demands and larger Muslim perspectives could adequately be analyzed.

Before discussing the main findings of this study, I would like to point out a serious conceptual problem related to the study of Muslims of Nepal. One finds the existence of two competing discourses- a high discourse of Nepalese politics which is dominated by the debates on Monarchy, democracy and peoples liberation and a completely marginalized discourse of Muslims, which is shaped by the socio-economic

backwardness of Muslims, their everyday relations with other groups and communities and their direct and indirect participation in actual Nepalese politics at various levels.

The high discourse of Nepalese politics recognizes Muslims as a religious community and an inseparable constituent of 'multi-ethnic, multi-cultural and multi-linguistic nation'. However, one finds that the Muslim political presence is quite insignificant in the overall contours of this discourse. For example, the question of secularism is defined primarily in opposition to Hindu monarchy rule in the existing Interim Constitution. The rights of Muslims and other religious minorities, which are directly linked to the secularization of polity, are not even mentioned in the existing legal-constitutional framework.

On the other hand, the Muslim political discourse has a very different formation. Muslim leaders, groups and organizations do refer to the high politics of Nepalese state, their internal arguments and perspectives stem from various other sources such as historical evolution of various Islamic sects and the subsequent politicization of various kinds of Muslim organization. This Muslim political discourse, despite being highly diversified and multifaceted seems to adhere to the idea of Muslim distinctiveness. Precisely because of this reason, the Muslim unity as we have just seen has become the defining characteristic of this discourse.

In course of my study, I find that these two contesting discourses have a minimum interaction. There could be two possible reasons behind it. First, the Nepalese politics is in a state of uncertainties. The future of democracy, constitution, rights of various groups and communities on the one hand and the changing geo-political equations in South Asia (and in the world) on the other are defining the character of present political discussions. In such a scenario, it is virtually difficult for political actors to come out with any final solution. That is why Muslim demands are always seen as a part of a collective charter of demands presented by various groups in recent times. The second reason is quite historical. The dominant culture of Nepal even today is indifferent towards Muslim culture and society. Unlike Dalits, Janajatis and even Buddhists who found a relatively significant presence in the Nepalese public life for good or bad reasons, Muslims have

always been absent. Despite the fact that legal treatise such as Mulki Ain and other constitutions did recognize Muslims as a religious community, they never found a cultural visibility of any kind in the national culture.

This seemingly limited Muslim presence led to a crucial conceptual problem, which very much evident in the existing literature as well. The Muslims are either studied in the much larger perspective of *politically correct inclusiveness* framework, where they are treated merely as a 'case study' or they are studied in a conventional structure of Hindu kingdom-Muslims subject. In both cases, the self-perceptions of Muslims and their internal diversity never get any kind of analytical treatment. In order to cope with this conceptual difficulty, I tried to focus on two areas-- legal-constitutional framework and everyday discourse of Muslims, which helped in translating a few findings into a few broad arguments.

First, there is a reciprocal relationship between legal constitutional discourse and Muslim identity. In that sense, I find an interesting trajectory of *minoritization* of Muslims in Nepal, which can be seen at three crucial moments of Nepalese Constitutional development. The first moment of 1854 (Mulki Ain in the post-unification period) tells us about the social differences as an established criterion by which the status of a social group is defined; the second moment of 1940's and 1950's (rise of political parties and restricted democracy) is all about recognizing these social groups including Muslims as modern categories and for that reason gave them a political legitimacy of some kind; the third and final moment (post-1990) introduces us to the multiplicity of minority politics which has been a major constituent of the recent debates on the inclusion of Muslims in the constitutional discourse. This shows that Muslim political identity is contingent upon the manner in which the question of religion and minority are posed. Therefore, I argue that the legal-Constitutional discourse has been an important marker of Muslim identity in Nepal, which not only offers a legal definition to Muslims as a religious-social-political collectivity but also set the terms of their political engagement in a significant way.

My second argument further elaborates this process of politicization. The self-perception of Muslims as a religious community is an important issue in this regard. During the fieldwork, I found that the term ‘Muslim’ is contextually constituted around a constructed ‘inner’ and ‘outer’ domain of collective identity. The ‘inner’ domain of this Muslim self is shaped by various competing social identities – caste, sect(s), region and gender etc; while the outer domain is formed by an image of a ‘fixed collectivity’ in relation to the other overarching religious, regional and ethnic identities. My interaction with almost all the respondents reveals this complex making of inner and outer domains quite clearly. Following is an abstract of my discussion with a group of class X students, comprising of both boys and girls, in a Madarsa in Nepalganj.

Q. Are you all Nepalese?

A. Yes (with whispers ‘no we are Muslims’, no, no, we are Nepali Muslims)?

A. Yes, yes we are all Nepalese Muslims.

Q. Are you all *Madhesies*?

A. Yes, we are *Madhesies* (some voices, we are Muslims, not *Madhesies*).

Q. Are you Nepali or Muslim or a *Madhesi*?

A. We are Nepali Muslims (emphasis). *Pahari* people call us *Madhesi*. They use the word *Madhesi* to abuse us but things have changed now. We don’t feel bad about it. We have our own *Madhesi* party now. (Group 1: 24 students of Madarsa, Nepalganj)

This discussion shows that Muslim identity is highly fluid, which acquires various shapes and forms in different contexts.³⁵ When Muslims interact with Muslims, the inner domain becomes active and caste, class and gender identities become the prime indicators of social discourse. However, when Muslims interrelate themselves with other religious communities as well as the abstract terms such as Nepalese nation or *Madhes*, they prefer to define themselves as a religious collectivity. What is interesting in this process is that

³⁵ Furthermore, the individual interaction with these students, made this identity construction more complex. I discovered that caste among Muslims is a constitutive marker of their identity. I was told that Halwai, Siddiqui and Ansari are the three main castes of Muslims in Terai region.

inner and outer are highly contingent and fixed in terms of self-identification. But, how does this multifaceted Muslim identity become a closed political entity?

My discussion with the leaders of Hindu Swayamsevak Sangh, a rightist Hindu political organization, which is allegedly supported by the Indian Hindu rightist organization, Rashtriya Swayamsevak Sangh (RSS) and which has been very active in post 1990 period especially after the destruction of Babri Masjid in India, in the Central Terai region, is quite revealing in this regard. According to Madhav Das (Chairperson of HSS) and Anoop Kumar (Propaganda Secretary), the religious values and social customs of Hindus define the political identity of Nepal. Nepal has always been a Hindu state because Hinduism function as a unifying force to establish political bonding among different communities- pahari, Madhesi, Newari, chetri and so on. They claim that religions that originated outside *Aryavarata* (an imaginary land of Aryan race, which is according to rightist Hindus more or less correspond to present Indian sub-continent) pose a significant challenge to peace loving Hindu nation state of Nepal. The Muslims (and Christians), they suggest, are foreigners and precisely for that reason their religion does not allow them to assimilate in the national Hindu culture of Nepal. Moreover, as a community, they never take any initiative to accommodate in the social fabric of the country. That is why their loyalties to nation are questionable. They allege that the Maoists, who are basically atheists, have encouraged different groups to demand for separate identity based rights in Nepal. This process has promoted separatism and destroyed the intrinsic unity among different Hindu communities. The Maoist support to Muslims further aggravated the situation because being associated with worldwide Jehadi networks Muslims get involved in anti-national and terrorist activities. In order to rectify these anomalies, these leaders suggest a very clear nationalist solution. They demand that Nepal should remain a Hindu state because Hinduism is tolerant enough to accommodate the possible freedom and cultural –religious rights of minorities. They also recommend that the common civil code is the best way to ensure social harmony and political stability of the country (int. Das and Kumar, 2009).³⁶ Thus, we find that the rightist

³⁶ It is important to clarify that there is a major difference between RPP and Hindu rightist. The RPP demand for the establishment of Hindu Monarchy rule while the NSS's focus has been Hindu rule with or without monarchy. This difference is not entirely clear because (a) both of these forces are almost

Hindu perspective in Nepal, which has not emerged as a powerful political force so far construct Muslim identity as its 'other'. This otherness is not only evoked to legitimize Hindu unity and Nepal's essentialist Hindu character but also to provide a conceptual outline to the communities, which call themselves Muslims in Nepal. So, the point is: Muslims become a political community whenever Hindu rightists articulate themselves as a collective political force.

Let me link this point with the question of fear psyche and communal security/insecurity of Muslims. During my fieldwork in Terai, I find an increasing process of Hinduisation of local cultures and rituals, which is strategically promoted by the NSS as a mobilization drive. Havans (a grand congregational worship), celebration of festivals in an organized manner, collective marriages and establishment of various socially useful organizations such as gym, libraries and sports club are being increasingly used to mobilize Hindus for some sort of social collective activities by NSS in Terai region. This assertion of Hindu identity directly or indirectly creates a fear psyche among Muslims. They are more and more isolated from shared and collective cultural practices. This process of estrangement has contributed a lot in creating a clear divide among Hindus and Muslims in recent years. The communal clashes that took place in the 1990s aggravated this process. The famous Musafirkhana riot in 1995 in Nepalganj is a very revealing case in this regard when a group of Hindus forcefully tried to convert a shop into a temple just opposite to the premises of Musafirkhana. Quite similarly, the Hindu fundamentalist groups also tried to convert 2006 Madhesi –pahari riot into Hindu Muslim riot.³⁷ They even tried to ignite the situation by distributing CDs depicting the violent events of this riot as incidents of communal clash (int. Das and Kumar). Thus, from Muslim point of view this strategic cultural marginalisation forced them to search for an identity of their own- in terms of Islam, caste and region. Perhaps for that reason, a number of Madarsas and Mosques were established and or revived, the Tablighi Jamat became a prominent form

insignificant and (b) NSS does not fully support the recent democratic upsurge. However, they seem to be agreed upon most of the demands – centrality of Pashpatinath temple, cow as a national symbol and so on.

³⁷ For a detailed discussion on these events see Crisis Group report, 9 July 2007. These events were also referred continuously in individual interviews and in the group discussions during the fieldwork in Terai region.

of religiosity and Muslims of Nepal started their historical links with the Muslims of sub-continent and the world.

Interestingly, the dominant discourse of inclusiveness as well as Muslim political discourse interprets these events in a very different way. The local clashes, which had very specific local reasons, were described in an essentialist language of violence against Muslims as if every clash, in which Hindus and Muslims were involved in the past, is related to each other. I find several discussions on the history of communal riots in Nepal or a list of incidents when a Mosque or shrine is attacked by Hindus. One cannot, of course, ignore the historical existence of communal feelings in Nepal, however, this grand narrative of communalism by Muslim leaders and politically correct self-proclaimed secularists transform Hindus and Muslims into two well-defined political communities. Thus, I argue that apart from the constitutional framework, the requirements and compulsions of Hindu, Muslims and even the leftist politics affect the everyday language and vocabulary of 'self and other' and transform Muslims into a political entity.

The third argument is related to the interface between the contemporary left politics and Muslim politics, which has produced a very interesting configuration in Nepal. The left, especially the Maoists, has redefined the 'centrality of class thesis' in such a way that hitherto untouched issues such as religion and caste could be accommodated in their larger political-ideological frameworks. In case of Muslims, as we discussed in the previous section, left groups have not only recognized Islam as a basic religious identity of Muslims but also have stridently argued that the Muslims issues in Nepal cannot be resolved by placing them in the given secular categories such as Madhesis and/or religious minority. On the other hand, the active participation of Muslims in Janandolans led by Maoists, have also shaped the nature of dominant Muslim political discourse. We find that almost all the leading Muslim groups recognize the Muslim social and cultural diversity in principle and articulate their demands in a language of cultural rights. The issues such as protection of mosques and personal laws are not conceptualized as religious concerns; rather these questions are underlined to highlight the cultural distinctiveness of Muslims in Nepal. Thus, I argue that this interface between left politics

and Muslim politics not only helped in defining religion as a form of cultural identity but also provided an indigenous root to contemporary Muslim political assertions.^{38 39}

Let me conclude this paper by underlining the fact that the increasing role of NGOs and INGOs in the Constitutional making process and direct involvement of powerful players of world politics are going to influence the nature of and Nepalese politics in a significant way. Thus, there is a strong possibility that Muslim groups like other regional, religious and ethnic minorities will also be absorbed in this imposed discourse of inclusiveness.

Table : Societal Representation in Parliament in the Past and in the CA at Present

Interviews and Consultations

1. Nepal Muslim Etehad Sangathan – Siraj Farooqui and Junaid Ansari (NC-Madhav Nepal) – 14 July 2009.
2. Abdul Sattar – Nepal Muslim Sangh - (NC) 17 July 2009
3. Athar Hussain Farooqui- Nepal Muslim Mukti Morcha- (CPN –Maoist- Prachand)- 15 July 2009
4. Mohammad Abbas Engineer - Nepal Muslim Federation (Communist Party of Nepal (Unified-Marxist-Leninist) 16 July 09
5. Karima Begum – First Elected Member – Madheshi Adhikar Munch (Broke of from Madhesh Janadhikaar Forum) – 20 July 2009

³⁸ Unlike caste -based Hindu Dharamshalas, which strictly follow the caste hierarchy, Muslim Musafirkhana is open to all communities. However, at the same time it has a Muslim cultural-religious character - there is a small Muslim shrine inside it belonging to the family, which actually dedicated the space for Musafirkhana as wakf along with a sizeable amount still goes for the maintenance of mosques and graveyards.

³⁹ In the 1991 election, the Muslim MPs who were elected to the lower house of Parliament were Kahalil Mian Ansari (NC), Sheikh Idris (NC), Salim Ansari (CPN-UML), Mirza Dilshad Beg (NCP) and Sayyed Miraj (NC) Dastider, 156. We also find that various Muslim leaders participated overwhelmingly in the pro-democracy movement from Muslim dominated areas of Terai region. This is also true about Muslim's active participation in Maoist led later *Janandolans* (interview with Athar Faruqui).

6. Nasir Siddiqui- Madhesh Janadhikaar Forum -21 July 2009
7. Maulana Ataurrahman- Jamiatul-Ahle Hadis- 21 July 09
8. Seema Khan – Freelance Journalist – Nepal Muslim Women Society, funded by UNIFEM -15 July 2009
9. Mohammdi Siddiqui- CA member and founder of Fatima Foundation – 23 July 2009
10. Roshni Karmacharya – STEP –Nepal, 23 July 2009
11. Sanjay Rana – Programme Manager – Enabling State Programme 24 July 2009.
12. Judge Tahir Ali Ansari, Judge Supreme Court of Nepal, 27 July 09
13. Attaullah Khan , Muslim Manch Nepal, 16 July 09
14. Consultation with Prof Krishna Hetchchu CNAS

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Appendix 1 Systems of Governance in Nepal: A comparison

Features	1948	1951	1959	1962	1990	2007 (Interim Constitution)
	Traditional Rana Regime	Monarchy rule/King's government	Parliamentary Monarchy	Parliamentary Panchayat System	Parliamentary Democracy	
System of government	The hereditary Rana prime minister was the head of government and enjoyed all executive powers.	The PM was appointed by the king; ministers were appointed on the advice of the PM; all the ministers became members of the Advisory Assembly	The PM had to be a member of the House of Representatives. Ministers had to be or had to become members of either House; the House of Representatives could pass a vote of no confidence	The PM and ministers had to be members of the National Panchayat, the cabinet was chaired by the PM or the king; the king could dissolve the cabinet; the National Panchayat could pass a vote of no confidence, but the king could disapprove it; the Raj Sabha was to advise the king; the king appointed a commissioner for each zone.	The PM was the leader of the largest party/combination of parties in the House; the House could pass a vote of no confidence; the king could remove the PM; the Raj Parishad was to advise the king.	The PM was appointed by consensus; ministers need not be members of the House; a provision for passing a vote of no confidence was latter added through an amendment.