



Peace, power and inclusive change in Nepal

Political Settlements in Practice



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Acknowledgements

Accord would like to give thanks to:

Aditya Adhikari

Bhaskar Gautam

Christine Bell

Felix Colchester

Zahbia Yousuf

and the Nepal Transition to Peace Insititute

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This report is an output from the **Political Settlements Research Programme (PSRP)**, funded by UK Aid from the UK Department for International Development (DFID) for the benefit of developing countries. The views expressed and information contained in it are not necessarily those of or endorsed by DFID, which can accept no responsibility for such views or information or for any reliance placed on them.

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Published by:

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Charity registered in England and Wales (1055436)

Company limited by guarantee registered in England and Wales (03196482)

Design & layout: www.revangeldesigns.co.uk

Cover photo: Thousands of protestors march along a section of the ring road in Kathmandu in defiance of the curfew imposed on 21 April 2006.

Credit: Kiran Panday

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Exclusion was a key cause of the 10-year war between Maoist insurgents and the Nepali state, and advancing inclusion has been central to efforts to build peace. Ten years on from the signing of the Comprehensive Peace Accord (CPA) in November 2006, the record of the post-war transition to end violence and restructure the state ‘in an inclusive, democratic and forward looking manner’ – a major commitment of the CPA – has, however, been mixed.

Today, the Maoists have long been integrated into mainstream democratic politics and their People’s Liberation Army (PLA) has been disbanded, but there has been stagnation and even regression in certain key areas. A substantial section of Nepali society feels that some hard-won gains towards a more inclusive society that were enshrined in the 2007 Interim Constitution have since been clawed back. Nepal’s new Constitution, agreed by the four major political parties

(now including the Maoists) in September 2015 in the aftermath of the earthquake in April that year, contains significant compromises in relation to women’s citizenship and political representation for marginalised communities. It prompted months of often violent protests, particularly among Madhesis in Nepal’s southern Tarai plains.

This paper tracks some of the ways in which inclusion has progressed through post-war transition in Nepal, and how it has navigated shifting power dynamics. The analysis draws on local perspectives of Nepal’s transition and political settlement gathered through a participatory research workshop and other discussions in Nepal, as well as on relevant literature. It explores how power is configured in Nepal, what inclusion means and how it has been applied politically, and how change has happened – through formal and informal channels, as well as the continuing role of violence.



Background: War and the peace process

War

Baburam Bhattarai, a top leader with the Communist Party of Nepal (Maoist) (CPN-M), famously asserted that the 'People's War' was launched on 13 February 1996 with 'the proclaimed aim of establishing a new socio-economic system and state by overthrowing the present economic system and state'. The Maoists' grievances included socio-economic exclusion – '46.5% of the national income is in the hands of 10% of the richest people ... 81% of the labour force is engaged in backward agricultural production' – as well as exclusion related to identity and geography – 'the problem of the oppressed regions and nationalities' (Bhattarai 1998). The Maoists' 40-Point Demand, presented to the government in the run-up to the war, had also called for an end to discrimination against women and of all class exploitation and prejudice – including the Hindu system of 'untouchability' (40-Point Demand, 1996).

The Maoists' social reform agenda and armed insurrection techniques attracted support from many impoverished people in the outlying hills and mountainous areas. Until the end of the 1990s fighting remained relatively low-level, and the government's response was also restricted to deploying the police rather than the military. Increasing awareness of ethnic inequality and discrimination fuelled the insurgency (Thapa 2012). The entry of the Royal Nepal Army in late 2001 was accompanied by a massive increase in violence (von Einsiedel, Malone and Pradhan 2012). Ceasefires in 2001 and 2003 both collapsed.

In 2002, King Gyanendra dismissed the elected government and assumed more direct political control before seizing absolute power in February 2005. This led Nepali political parties across the spectrum to form the Seven-Party Alliance (SPA), and together they began serious discussions with the insurgent CPN-M. With the support of New Delhi, the Maoists and the SPA settled on a *12-Point Understanding* in November 2005, which accepted parts of the stated Maoist agenda of social justice and state reform to provide redress for structural and historical discrimination against various social, ethnic, caste and other groups (12-Point Understanding, 2005).

Comprehensive Peace Agreement

In the spring of 2006, Nepal saw its second People's Movement (the first had led to the restoration of multiparty democracy in 1990). Diverse sections of society and political actors mobilised in daily rallies and demonstrations across the country for 19 days, until King Gyanendra restored the parliament, a key demand of the SPA.

The restoration of parliament and the return to power of the SPA triggered a series of significant events: the end of all royal prerogatives; the declaration of Nepal as a secular country; the adoption of a ceasefire; the signing of the CPA between the SPA-led government and the Maoists; the adoption of the Interim Constitution; and the entry of the CPN-M into the newly renamed Legislature-Parliament.



Demonstration on the streets of Kathmandu, April 2006.
Photo: Oliphant / flickr

Besides bringing an end to violence, the CPA dealt with issues of social and political transformation and inclusion. Clause 3.5 states: 'In order to end discriminations based on class, ethnicity, language, gender, culture, religion and region and to address the problems of women, Dalit, indigenous people, ethnic minorities (Janajatis), Tarai communities (Madheshis), oppressed, neglected and minority communities and the backward areas by deconstructing the current centralised and unitary structure, the state shall be restructured in an inclusive, democratic and forward looking manner' (Comprehensive Peace Agreement 2006).

Following the appointment of first a special envoy and then an Office of the Personal Representative of the Secretary-General, a special UN Political Mission in Nepal (UNMIN) was set up in 2007 with the mandate to 'monitor the management of arms and armies' (ie the Nepal Army and the Maoist army), and to provide electoral observation for the first CA election.

Post-war transition

The Interim Constitution adopted in January 2007 mentioned secularism and republicanism but was quiet on federalism. The Madhes Movement, a major protest by groups representing the Madhesi and Tharu populations predominant in Nepal's southern Tarai plains, began almost immediately and the Interim Constitution was amended to restructure Nepal along federal principles. Federalism was associated with devolution of power and greater political representation of marginalised groups. Similarly, the electoral system was also amended after the second Madhes Movement a year later, to allow for a higher degree of proportional representation.

The Maoists emerged as the largest party in the election to the first Constituent Assembly (CA) in April 2008. They formed a government with the Communist Party of Nepal-Unified Marxist Leninist (UML), traditionally one of Nepal's two largest parties, along with the Nepali Congress (NC), and the new Madhes-based parties – led by a number of senior Madhesi leaders who had left the more established parties, in particular the NC, in 2007 over disagreements on federalism and proportional representation.



Maoist Prime Minister Pushpa Kamal Dahal Prachanda in 2009. Photo: GAD / wikimedia.org

Tussles followed over the fate of the Maoist army, and then over Maoist Prime Minister Pushpa Kamal Dahal Prachanda's attempt to assert authority over the Nepal Army, which led to his resignation in May 2009. The post-war limits of popular mobilisation – and of its legitimacy – soon became clear. The Unified Communist Party of Nepal (Maoist) (UCPN-M – renamed after the CPN-M's merger with another Maoist party in 2009), was not able to push for acceptance of its broader political agenda: a dignified transition for its fighters, civilian control of the army, a share of power in government, and social and political inclusion for marginalised groups. Nor could it change the balance of power that would help to achieve this.

UNMIN finally exited Nepal in January 2011 under growing resistance from the Nepal Army, the bureaucracy, and the NC and the UML. The fate of the Maoist fighters in cantonments had not been resolved. However, the presence of UNMIN, and specifically the Joint Monitoring Coordination Committee (JMCC) it headed, had helped build trust between representatives of all sides involved in overseeing the armies. A significant milestone of the peace process was reached in early 2012, when the PLA, which had by now been confined to cantonments for over six years, was finally disbanded. Less than 10 per cent of the originally registered 19,602 fighters were incorporated into the Nepal Army,

a far cry from the 'integration' process envisioned by the Maoist leadership. But, over the years, the UCPN-M had steadily negotiated away its demands for PLA fighters as part of various power plays.

In May 2012, representatives of several identity-based groups (ethnic, caste and regional) engaged in major protests regarding federalism, definitions of indigeneity, and affirmative action. In part due to fears of communal violence sparked by these protests, and in part due to real intransigence, the parties were unable to agree on a statute and the first CA was allowed to lapse. A period of constitutionally dubious political arrangements followed, including the appointment of the sitting chief justice as prime minister.

The UCPN-M underwent a vertical split following the failure of the first CA – although many mainstream leaders remained in the parent party. This resulted from allegations of corruption and indiscipline in the party leadership, the loss of clarity with regard to the party's class-based agenda, scepticism about identity-based mobilisation, and unhappiness over the treatment of the fighters. The Maoists and Madhes-based parties performed badly in the election to the second CA in November 2013 as the more established parties regained ascendancy. The UCPN-M came in a distant third, while the newly formed Janajati-based parties, led by mostly UML members who had felt that the party did not represent them, also did very poorly.

2015 earthquakes

Following the devastating earthquakes of April and May 2015, the three major political parties – the NC, the UML and the UCPN-M – along with the largest Madhesi party, the Madhesi Janadhikar Forum-Loktantrik (MJF-L), decided to fast-track the constitution.

From July to September 2015, virtually every single major social group – except hill 'upper-caste' Bahun and Chhetri men, from the top level of Nepal's class hierarchy – protested various provisions of the proposed constitution. Women's groups protested citizenship laws. Madhesi, Tharu and Janajati groups protested at different times – demanding demarcation of states in order to make the federal commitment concrete, and then the arrangement of delineation itself; and also, more broadly, the exclusivist nature of the decision-making process and the withdrawal of provisions from the Interim Constitution relating to greater inclusion and proportional representation. In the far-west, the demands of the 'upper-caste' hill groups over territory claimed by Tharu groups were met quickly, while Tharu and Madhesi protests went on for days with few attempts to hold talks, reinforcing perceptions of bias.

The constitution was ultimately promulgated in September 2015 amid mass protests in the Tarai and threatened shutdowns in eastern Nepal and elsewhere. At least 46 people were killed in five weeks of unrest in August and September 2015.



May 2015: A woman extracts what remains of her belongings from the rubble of her home in Singla village, a remote mountainous region in the Gorkha district near the Himalayas that was devastated by the 2015 earthquakes. Photo: Asia Development Bank

Power

Power in Nepal has consistently been allocated according to class, religion, ethnicity and gender. Today, people and institutions with power include political leaders, often representing traditional power structures and with strong networks; the political parties and the factions within them; the leadership of the Nepal Army; some politically connected members of civil society; and the media.

In society, 'upper-caste' groups exercise more power than Dalits (deemed the lowest in the Hindu caste system), Madhesis or Janajatis, just as men within each group have more power than women. The leadership of political parties also reflects this social dynamic. In Madhesi parties, while the leadership is somewhat more mixed, higher and intermediate castes dominate. These power structures have evolved historically through state formation and, more recently, through the war and the peace process.

Evolution of power and the state

Individuals and institutions associated with the state have traditionally dominated political power in Nepal. People who control power networks tend to belong to one of two hill-origin, 'upper-caste' groups, Bahun and Chhetri. Consequently, the state defined particular, restrictive ways of being Nepali to create a nation in the image of its 'upper-caste' Hindu, Nepali-speaking ruling groups. An aspirational Nepali identity has been aggressively promoted through the Nepali language, and acceptance of the supremacy of the Hindu religion – and of the king as its guardian (Onta 1996).

The monarchy and its network of hangers-on, the compliant bureaucracy and the Nepal Army have administered traditional forms of political power. In the course of the unification and expansion of the Nepali state, many local figures and systems of power that reflected different cultural, religious, linguistic and geographic realities were subsumed into what was originally called the Gorkha kingdom. Over time, land and authority in many areas was redistributed by the monarchy, causing ruptures in lineages of traditional local authority, and redefining relationships between these sources of authority, local populations and the increasingly centralised Gorkha kingdom.

In 1846, a military officer, Jung Bahadur Rana, seized power in a coup, ushering in a prolonged era of hereditary rule by successive Rana prime ministers, with the king reduced to a largely titular role. Jung Bahadur instituted the *Muluki Ain* (civil code), which codified the caste system, marshalling the multiplicity of Nepali communities into a structured, national class hierarchy (Thapa 2012).

The end of the Rana era a hundred years later came about through an armed uprising spear-headed by the recently formed Nepali Congress (NC) political party. The Ranas, the NC and King Tribhuvan Shah reached a compromise agreement that promised progress towards democracy through elections to a Constituent Assembly. However, the 1951 Interim Constitution allowed the space for the monarchy to reassert its executive, legislative and judicial powers. The 1959 Constitution retained the king's extraordinary powers, which enabled King Mahendra to dismiss Nepal's first democratically elected government led by the NC that had come to power 18 months earlier.

A new constitution decreed by the king in 1962 introduced the partyless 'Panchayat' political system – ostensibly a 'Nepali' version of democracy that in reality concentrated power in the palace (Thapa 2012). In 1990, a popular movement provoked a return to multiparty democracy and a new constitution. The first People's Movement, as it is now known, was led by a coalition of political parties that included both the NC and the 'larger left movement'. The post-1990 democratic experiment was unstable, beset by swift changes in government and unfulfilled aspirations for greater inclusion. The failure to institute more fundamental reforms meant that some from the more radical left rejected it. The launch of the Maoists' 'People's War' in 1996 was a violent expression of dissatisfaction with the pace, extent and direction of social and political change.

Remodeling power through war and peace

As the conflict progressed, the power of the constitutional monarchy became an increasingly emphatic focal point of confrontation. The timing of the challenge to King Gyanendra reflects this progression. After sidelining political parties in 2002, he seized absolute power in 2005. Through the intervening years, the Maoists had steadily gained strength due to a heightened sense of grievances around issues including: unequal access to development dividends across caste, ethnic and regional lines; the failure of the economy to accommodate the aspirations of a slowly growing middle class; negligible agrarian or land reform; unequal citizenship and systemic discrimination on the basis of social identity; and a rentier state and a feudal and extractive political leadership.

Civic discontent against the 2005 takeover was suppressed. The monarchy had enjoyed some international support, but as human rights violations by the army were being increasingly well documented, it was becoming clear that the king had little understanding of the level popular feeling against him. As a result, the interests of a diverse and usually discordant group of actors found common cause in opposing the royal regime.

The end of the war brought more change. New elements gained access to the post-conflict landscape of political parties. The Maoists entered the political mainstream via the peace process. Madhesi and Janajati groups initially welcomed the move to a republic and a secular state. They hoped it would signal proactive steps to address their own aspirations, in particular the establishment of federalism that would ultimately lead to more meaningful devolution of decision-making and governance authority, and greater representation and inclusion of groups that had historically been systematically and structurally discriminated against. When it appeared the new Interim Constitution would not acknowledge their demands, the first Madhes Movement was triggered in early 2007, demanding a commitment to federalism. Similarly, in early 2008, the second Madhes Movement insisted on a higher quota in the proportional representation part of the mixed electoral system.

But in the aftermath of the war it was not just political parties, new and old, that reasserted themselves or gained more authority. Some of the power centres of the old state also persisted with greater autonomy and influence, no longer held in check by the absolute authority of the monarchy. The Nepal Army was a major player. Its prominence was not simply due to its role in the peace process, but also because it styled itself as the custodian of Nepal's sovereignty and as a bulwark against the unpredictability and corruption of a democratic political system. Other legacies of power from the old state included the bureaucracy and judicial system, both of which appeared to resist attempts to promote inclusion of historically marginalised groups in state institutions.

Constituent Assemblies

The first CA lapsed in 2012 without having agreed a new constitution because of profound differences on the nature of federalism, inclusion and representation. Discontent in the first CA took many forms, which were also reflected in the functioning of the second CA: the centralisation of decision-making power in the hands of a few top leaders; the issue of party whips to impose official policies; and the dismissal of dissent within parties, whether it came from representatives of the marginalised and women's groups or anyone else.

Decisions regarding the constitution were made through consensus among the leadership of the major political parties, even though, in principle, all decisions to pass the new constitution or amend it require a two-thirds majority. One result of this has been a constant series of trade-offs in negotiations over constitutional issues such as the number of provinces the country was going to be federated into, with the various parties haggling over numbers ranging from six to 14. And, it also affected 'power sharing', which, in Nepal, has nothing to do with constitutional arrangements, but only describes the formation of alliances and governments.

By virtue of the electoral system adopted, the two CAs expanded the political space for women. But the successful push for quotas for women in the CA had little impact on the negotiation process.

In part, this is because nearly all political parties lack powerful women leaders and do little, if anything, to encourage women to rise up the ranks – except by virtue of birth or marriage. Where a CA member has specific (leg legal) expertise, they may be appointed to serve on various expert committees, but they are not empowered to truly negotiate and make concessions, only to hold the party line.

Between the first and the second CA the shift in the balance of power was almost complete. The traditional parties, the NC and UML, became far more powerful than the newer political forces, such as the Maoists, Madhesi and smaller Janajati parties. The primary change in terms of the constitutional agenda was the about-face by the UCPN-M on inclusion, representation, and meaningful federalism.

Inclusion

Inclusion and the peace process

Although inclusion had come up as a political issue in Nepal in the 1990s, the terms of the 1990 Constitution and the socio-political framework of the political system were not amenable to inclusive change. The Maoists were the first major political group to raise the issue of inclusion. This stemmed from their analysis of multiple forms of discrimination in Nepal that fed into inequality and class resentment. The Maoist heartland in the mid-west and other mid-hill areas, in which the party exerted a high degree of control during the conflict, were home to various Janajati groups. These groups had clearly suffered discrimination on the basis of their cultural practices, language and sometimes religion, and also had reduced access to the benefits of development. The Maoists recruited extensively from these groups for membership in the party and the PLA, and for various ancillary roles during the conflict.

One effect of the 2006 peace deal has been an expansion of the cast of characters at the national level with the arrival of new political forces. The CPA legitimised a new kind of political actor whose right to participate came from representing an explicitly progressive

political agenda that marked a break from Nepal's prevailing political rules and culture. In practice, though, real participation was extended to those who could also claim to mobilise politically, such as the Madhesi parties, to contest elections, but also to organise shutdowns and street movements – as described below. To a lesser extent, Janajati actors were able to lay similar claims through their informal cross-party caucus in the first CA and in the major street mobilisation that preceded its dissolution. There was minimal expansion in the influence of Dalit and women representatives.

Inclusion is linked to demands for federalism as delivering self-government, but given Nepal's complex ethnic mosaic the question of inclusion goes further. For example, inclusion is particularly important for Dalit groups, which, while constituting 12 per cent of the population, are spread out across nearly all the 75 districts, and whose needs cannot therefore be met by a move to territorial ethnic self-government.

There has also been a significant shift in public discourse on inclusion since the 2006 political change. Previously, there had been a sense that social and economic conditions of historically marginalised groups could be improved within the existing framework of social and political relations. Today, members of Madhesi and Janajati groups are now explicit about wanting a re-definition of what it means to be Nepali – demanding greater agency, full political participation, and affirmative action as redress for systematic marginalisation.

Inclusion in practice: external influence and internal resistance

After the CPA was signed and the peace process architecture began to be put into place, the significance of pledges to restructure the state and provide redress to various 'oppressed groups', as the Maoist party called them, was barely recognised. The focus was much more on the political 'mainstreaming' of the Maoist party and on disbanding the PLA. The two Madhes movements in 2007 and 2008 along with the concurrent one led by Janajatis fundamentally altered the nature of the transition, and launched a forceful public discussion about the exclusionary nature of the Nepali state.

For the first years of the peace process, from 2006 to 2012, international donor partners referred heavily to the language of social inclusion and targeted programming for historically marginalised communities and regions. But, donors as a whole have been unhelpfully inconsistent on whether or not they support inclusion. Some donor projects aimed at inclusion and federalism came to be heavily criticised by parts of Nepal's traditional establishment for having stoked ethnic sentiment or promoted ethnic federalism, and donors subsequently backed away from the inclusion agenda (ICG 2012).

Since the end of the first CA in 2012, successive governments and the bureaucracy in Nepal have continued to successfully push back against such involvement, using arguments about the uniqueness of the Nepali context and explaining donor commitment to inclusion variously in terms of support for a Maoist agenda; the need to defend Nepal's sovereignty; and the hypocrisy of 'Western' or 'Western-dominated' institutions that have been unable to tackle racism and sexism in their own countries, or have aggressively pursued their own self-interest in foreign policy at the expense of the citizens of poorer countries.

Indeed, there has been a major backlash against inclusion and federalism in the more influential parts of the media, the traditional political parties, the bureaucracy and judiciary, and parts of civil society. Inclusion is dismissed as one of a number of 'progressive' agendas being pushed by donors whose own interest, perversely, is not in the success of these projects, but in their own longevity in Nepal.

Other reasons for resistance include: real or imagined fears about weakening Nepali sovereignty, given the country's position in the shadow of both India and China; claims that Madhesi groups would be tempted to secede, given their cultural affinity to India and the open border; and an understanding of history which sees the formation of the Nepali state as having empowered, rather than disenfranchised, various groups by unifying such a diversity of territories to form the Nepali nation.

Change

Formal channels of change

At the national level today, formal structures are seen as essential to gain official approval for the kinds of political changes that many in Nepal seek – particularly regarding inclusion for those who feel discriminated against on the basis of ethnicity or caste, political affiliation or ideology. Important progress has been achieved through actions such as the declaration of Nepal as a secular republic (notwithstanding complications with the definition of secularism in the new constitution), the acceptance of federalism, the election system that ensured greater participation, and the introduction of quotas in government service.

At the sub-national level – district and sub-district, or village development committee (VDC) – power is organised through the bureaucracy. Before the start of the peace process, at the VDC level there was also elected local-level government. The last local elections were held in 1997. Local elections have subsequently been interrupted by the war, and then during the peace process by recurrent urgent debates over 'federalism versus decentralisation' and the reform of elected local officials. Elected officials had only limited powers, but were nevertheless an important democratic interface between citizens and the centre, in comparison to bureaucrats who have few local connections and, hence, are unaccountable to the population they serve.

After the peace agreement, All-Party Mechanisms (APMs) were set up, ostensibly to allow all political actors to have a say in local development. These bodies were meant to be politically and demographically inclusive. In practice, nominees of political parties or influential umbrella groups filled the positions and APMs functioned as little more than avenues through which to 'buy' local-level stability: they allowed political party representatives to divvy up the lump sum grant every VDC receives, as well as other project and development funding that came their way. These mechanisms were disbanded in 2011.

Political alliances and deal-making

Since neither the 2008 nor the 2013 CA election yielded a clear winner, and given the exigencies of the consensus requirement in the CA, Nepal's political landscape has been marked by the formation of alliances. The Nepali Congress and CPN-UML were allied by default, more due to their shared resistance to the Maoist party and the federalism agenda than any particular fellow-feeling. The counter has been what might be called a 'progressive alliance' of Madhesi and Janajati groups along with, at times, the Maoists.

These alliances, which mapped on to the disagreement on federalism, took shape after the first CA election in 2008. They continued when the Maoist party, the largest in the first CA, quit the government in early 2009, and were strengthened in the months leading up to the first CA's demise over the question of federalism in mid-2012. The 2013 election to the second CA reversed the balance of power, with the NC and UML together now representing an easy majority in the CA, with the Maoists, Madhesi and Janajati forces (all split into multiple political parties) having little, if any, way to challenge a two-thirds majority that the NC-UML combined could garner with the support of rightist forces.

At the local level, some new actors, such as the various political formations centred around a homeland for the Limbu ethnic group in the far eastern hills, have gained institutional legitimacy and history either through the All-Party Mechanisms or because they were able to exert a defining and controlling influence on local politics, and at times have been included in national-level formations. At both the national and local levels, however, the behaviour of the new actors has very much reflected the workings of the old political order – the use of connections, reliance on state patronage networks, and the instrumentalisation of agendas, ideology and weaker partners in the pursuit of access to state power and resources.

The relationship between local and national politics remains primarily extractive on both sides: national leaders offer the fruits of patronage and state resources to their constituents and local-level mobilisers, and the latter can improve their own economic conditions and social influence by keeping the district political machinery running for the national leaders.

Semi-formal and informal channels

Social movements

Social movements are familiar in Nepal, where they have accompanied significant instances of social and political change – notably the first and second People's Movements in 1990 and 2006, and the subsequent Madhes and other identity movements, as discussed above. Since then, grassroots and more NGO-based movements have emerged to advance a number of issues, including: the recognition of mother tongues and minority languages; ending practices such as untouchability; greater political representation along ethnic and regional lines; ending impunity; and for the inheritance of Nepali citizenship through mothers as well as fathers.

The relationship between social movements, political parties, political agendas and change is complex. For a political grouping – such as the main Maoist party, Madhesi parties or ethnic political groupings – to claim to be supported by or represent a movement in Nepali society confers legitimacy. This can change: public support can wane; or sympathetic commentators can point out how far a party has moved from its once-avowed commitment to issues or demands, and to the compromise deals it has made as part of power bargains. This type of constituency support needs to be renewed constantly – or, as critics would have it, 'stoked up'.

Too close an identification with party politics can also be detrimental for social movements, as was the case with Occupy Baluwatar (see below) and the NGO-led movement against impunity. Other movements, such as the agitation for maternal Nepali citizenship, address politically unpopular issues at the same time as needing political support for constitutional and legal changes. Particularly, newer identity-based movements demanding a greater share of the political pie are fundamentally tied to new political parties, not least because their aim is greater political participation and legitimacy in order to alter the exclusionary nature of the Nepali state.

Non-elite actors

Different non-elite constituencies have used a number of methods in a variety of combinations to affect change in Nepal. Significant examples include: shutdowns (*bandhas*); tactical alliances with and support to larger political forces;

Post-war violence and Nepal's political settlement

Violence has been central in shaping the post-war political settlement in Nepal – by the state against civilians, by the Maoists against civilians and the state, and by various agitating groups. Violence has been applied in different ways.

Street agitations can turn violent, often in response to the disproportionate use of force by state security forces to quell protests, or, less frequently, when opposing groups meet.

Bandhas (shutdowns) are nearly always enforced with violence or the threat of violence, targeted almost exclusively at those who fail to comply with the shutdown, rather than in clashes with state security forces or political opponents.



December 2011: *Bandh* in Kathmandu called by the Nepali Congress. Photo: happeningnepal.net

Those who feel they are not included in political decision-making can use targeted acts of violence. These can be tactical, to spread fear among the population as a way of putting pressure on the government, to target the 'state', including employees, offices and installations, or to 'encourage' the general public to support the cause or contribute. Such violence can be systematic, as in the case of the Maoists, or sporadic, as in the case of the numerous Madhesi armed groups and Limbuwan groups.

Madhesi and Janajati activists rarely threaten violence directly. Rather, they argue that the consequence of the refusal by the 'elite' or 'state' or the current crop of political leaders to agree to share power is radicalisation of the population, which can lead to violence. Partly as a result of this tactic, the normal level of discourse about inclusion or other subjects of debate is perceived to be more radicalised than it actually is, both as if violence were inevitable, and as if ordinary people, given the choice to do otherwise, would nevertheless express genuine social grievances through violence.

alliances with other small groups and the use of interest caucuses; attempts to use social media and gain influence in mainstream media outlets; use of the courts and the judiciary; use of legitimate outlets for debate such as the Constituent Assembly; increasing participation in organs of the state; threats of violence; and use of radicalised discourse.

There can be a relationship between, on the one hand, influencing change directly, and, on the other, increasing one's profile or legitimacy with the constituency one is claiming to speak for. Street agitation and *bandhas*, led, mobilised or supported by mainstream political actors, can serve all of these purposes simultaneously and have been used to considerable effect over

the past decade. But changes wrought by such movements have had limited impact on formal structures. Popular agitation, in fact, does little to fundamentally alter the nature and functioning of political structures, although street mobilisation has succeeded in compelling the accommodation of specific actors and even some issues.

The August-September 2015 protests in the Tarai against the draft constitution to some extent broke this mould: they were neither organised nor mobilised by the high command of Madhesi parties, but owed more to the ability of local organisers and civil society. It is unclear, though, whether such dissent is sustainable and will morph from shutdowns to broader civil disobedience, and thereby escape reliance on political parties to negotiate.

Those who lack cohesive power at the national level may nevertheless exert it locally, using it for different ends. Some examples, such as from the Madhesi and Limbuwan movements, include painting over government signboards in the local (non-Nepali) language; collecting local 'taxes' and 'tolls'; or intervening to help citizens access government services.

Civil society

Nepali civil society has become synonymous with NGOs, which broadly speaking have received a lot of bad press. Since the conflict intensified and human rights groups in particular became more vocal, a reference to civil society has tended to mean organisations that work on issues like human rights protection or public participation. Such organisations often operate, and are seen to be operating, within the parameters of donor-funded projects, framing issues to fit pre-determined agendas, rather than responding to issues and challenges as they emerge.

In the early days of the peace process, human rights initially appeared to some to be a useful tool to support the broad political and social transition underway. However, activists from historically marginalised communities increasingly felt that Nepal's most prominent human rights groups, which had been well-funded by international aid since the early 1990s, had a narrower conception of the political use of rights in the service of a progressive agenda, and were much less sensitive to the realities of structural discrimination.

There are effectively two human rights 'worlds' in Nepal (as there are for civil society in general) – organisations and individuals that came of age in the 1990s or during the conflict, which are comfortable working on conflict-era issues but wary of the current movements for a radical restructuring of the Nepali state; and those that have emerged since the consolidation of the peace process, and say that economic, social and cultural rights are their end goal, not only civil and political rights.

The influence of Nepali civil society and human rights groups appeared to erode as the political transition continued. Just as political parties held diverse ideologies and represented different constituencies despite coming together to fight against the monarchy, so 'civil society' comprised

various kinds of actor with different political affiliations. Hence, after 2006 there was no longer any coherent civil society that might represent the interests of citizens more broadly and hold to account political parties and the various organs of the state. Political parties themselves are identified by whether they are hostile or indifferent to, or supportive of inclusion and federalism agendas – as is the case of the newer political formations. As a result, for a number of newly active social groups, mainstream 'civil society' is generally no more than a formation of the 'old state', and as such committed to changing as little as possible.

Civil engagement

Civil engagement is different from either street protests, like the two People's Movements and the Madhes Movement, or NGO activity. Rather, it refers to relatively spontaneous and usually short-lived organising of groups – primarily in Kathmandu and around specific issues. In 2010, a group of private citizens and the national chamber of commerce organised the 'White Shirt' mobilisation, which protested to demonstrable effect against a strictly enforced total shutdown of the country led by the Maoist party that had lasted six days. In 2012, a movement calling itself 'Occupy Baluwatar' was launched in response to an incident of sexual abuse of a returning migrant worker by government officials.

While the White Shirt movement died out when the Maoist shutdown ended, Occupy Baluwatar continued for some weeks, evolving into an increasingly organised effort that appeared to be taking an NGO-inspired form, before it floundered on the rocks of infighting and a change of agenda that seemed to be aimed at unseating the Maoist-led government of the day.

Some advocates of progressive change who seek redress for historical exclusion and promote the redistribution of political and social power and influence are critical of civil engagement, seeing it as impeding real change by papering over the vast differences in opportunity and access among different groups. By contrast, the civil response to the earthquake has been different. In the initial weeks at least, it was spontaneous, extremely diverse and largely free of political agendas.

Prospects for inclusive progress

Inclusion has been both a focus and a measure of post-war change in Nepal. Marginalised communities have had to lobby hard to attain and sustain a foothold for greater representation in the transition. Political and social groups have supported or resisted inclusion according to their (sometimes fluctuating) interests, as federalism has come to mark a division between progressive and conservative agendas. The coherence of the Maoists' wartime solidarity with Janajatis and other 'oppressed nationalities', for example, has struggled to survive the vagaries of peacetime, and their commitment to advancing inclusion has come up against competing priorities and the realities of power politics. Meanwhile, external influence has waned as internal actors have been able to reassert their authority as the peace process has progressed.

After seven years of procrastination, the spring 2015 earthquake finally shocked political leaders into agreeing a new constitution. But the constitutional process has been heavily criticised for a lack of public consultation. This reflects a broader failure to ensure public participation in Nepali politics that has helped to sustain the significance of the 'politics of the street', and the role of sometimes violent mass mobilisation in demanding change – although the post-war legitimacy and impact of organised dissent has also diminished over time.



Kathmandu, September 2015: Activists stage a 'sleep in' protest to demand women's rights in the new constitution. Photo: Badri Pun / opendemocracy.net

The war and the peace process have accelerated the speed, scope and shape of inclusive transition in many areas and a basic framework for representative democracy has been established irreversibly. But the protests against the new constitution in the Tarai show the depth of continuing frustration among significant communities. The fact that these ended without either having achieved substantive constitutional amendments or establishing a coherent alternative way forward exemplifies the resilience of institutional resistance to change, and suggests that progress on inclusion will remain both slow and stuttering, and subject to contestation.

This paper is an output of the Political Settlements Research Programme (PSRP) – a four-year project to explore how political settlements evolve, how open and inclusive they are, and how internal and external actors shape them. Analysis draws on local perspectives of Nepal's transition and political settlement gathered through a participatory research workshop ('Learning Laboratory') and other discussions in Nepal, as well as on relevant literature. A central objective of the PSRP is to better understand how political settlements are reconfigured in conflict and peace processes, and how forms of 'horizontal' elite inclusion can be transformed into more 'vertical' forms of societal inclusion.

References

(1996), *40-Point Demand*, www.humanrights.de/doc_tr/archiv/n/nepal/politics/130299_40demands_Maoist.htm

(2005), *12-Point Understanding reached between the Seven Political Parties and Nepal Communist Party (Maoists)*, <http://peacemaker.un.org/nepal-12pointunderstanding2005>

(2006), *Comprehensive Peace Agreement between the Government of Nepal and the Communist Party of Nepal (Maoist)*, <http://peacemaker.un.org/nepal-comprehensiveagreement2006>

Bhattarai, B. (1998), *Politico-economic rationale of People's War in Nepal*, Kathmandu: Utprerak Publications

International Crisis Group (2012), *Nepal's Constitution (I): Evolution not Revolution, Asia Report No 233, 27 August*

Onta, P. (1996), 'Creating a Brave Nepali Nation in British India: The Rhetoric of Jati Improvement, Rediscovery of Bhanubhakta and the Writing of Bir History', *Studies in Nepali History and Society*, Martin Chautari, 1(1): 37-76, June

Thapa, D. (2012), 'The Making of the Maoist Insurgency', in von Einsiedel S. Malone D. and Pradhan S. (eds), *Nepal in Transition*, Cambridge: Cambridge University Press

Von Einsiedel S., Malone D., and Pradhan S. (eds) (2012), *Nepal in Transition*, Cambridge: Cambridge University Press

Peace, power and inclusive change in Nepal

This paper tracks some of the ways in which inclusion has progressed through post-war transition in Nepal, and how it has navigated shifting power dynamics.

It explores how power is configured in Nepal, what inclusion means and how it has been applied politically, and how change has happened – through formal and informal channels, as well as the continuing role of violence.

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