

# Accord spotlight

an international review of peace initiatives



## Gender and Nepal's transition from war

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**CONCILIATION  
RESOURCES**  
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# Gender and Nepal's transition from war

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**Conciliation Resources** is an independent international organisation working with people in conflict to prevent violence, resolve conflicts and promote peaceful societies. Our **Accord** series informs and strengthens peace processes by documenting and analysing the lessons of peacebuilding. Accord **spotlight** provides focused analysis of key themes for peace and transition practice.

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Cover photo: Newly elected members of the first Constituent Assembly getting ready to take the oath of office, May 2008.

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# About the report

This report explores gender relations and equality and Nepal's transition from war. Focus areas include: affirmative gender action in the transition, for example regarding politics, employment or development; gender perspectives on specific aspects of the transition, such as security sector reform, access to justice and political participation; gendered experiences, expectations and priorities of marginalised groups, including women, sexual minorities, Dalits ('low caste'), Janajatis (indigenous communities) and Madhesis (from the southern Tarai plains); and how different identities intersect. A short case study of the period of intense political change that followed the 2015 earthquakes in Nepal provides an illustrative, contemporary example of opportunities and challenges.

The report reflects discussions from a gender workshop convened jointly by the Social Science Baha (Nepal) and Conciliation Resources (United Kingdom) in Nepal in August 2016. Workshop participants included 24 women and men, ensuring a broad cross-section of Nepal's caste or ethnic, gender and regional diversity, and including local-level and national politicians, civil society groups, academics, journalists and independent researchers.

This meeting was one of three gender workshops exploring political settlement beyond elites, with other events taking place in Colombia and Bougainville, Papua New Guinea. These meetings have focused on how diverse groups in conflict-affected contexts understand and experience transition processes, in particular access to security and social and political goods.



# Key findings

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- **The post-war era has brought clear gains for women in terms of formal political participation and representation. But these have not been matched by women's ability to influence decision-making.** Women have constituted around a third of the membership of the two post-war Constituent Assemblies and the parliament, and have achieved senior positions such as President and Speaker. However, established male political leaders continue to monopolise major policy negotiations, often outside formal institutions. Women's political power has also been actively inhibited. The Women's Caucus was banned in the second Constituent Assembly, while women candidates are often selected to contest constituencies they are unlikely to win.
- **Recourse to international agreements and frameworks on gender equality has provided important impetus for the advancement of women's rights and progressive policy change.** Women's rights activism has been instrumental in ensuring the adoption of key international agreements in Nepal, such as the Convention on the Elimination of All Forms of Discrimination against Women, and UN Security Council Resolutions 1325 and 1820. But national legal frameworks continue to discriminate against women, while some barriers to women's advancement in Nepal have struggled to gain traction in the international sphere – such as structural and intersectional challenges relating to caste.
- **A period of intense political change followed the 2015 earthquakes, which has generated ongoing challenges and opportunities for gender inclusion:**
  - Earthquake relief exposed serious gaps between policy and programming regarding gender sensitivity, and there are implementation discrepancies between policy commitments to gender-sensitive budgeting and recovery strategies. Despite stated assurances, actual representation of women in key institutions such as the National Reconstruction Authority or District Disaster Relief Committees is weak or absent. Also, specific groups such as single-mother or female-headed households have found it particularly difficult to access relief.
  - The 2015 Constitution was rushed through in the months after the earthquake with very limited participation or consultation and with uneven impacts on gender equality. It cemented some legislative gains in protecting gender identity, such as guarantees of participation in state mechanisms for gender and sexual minorities. But the right of women to pass on citizenship to their children, previously enshrined in the 2006 Nepal Citizenship Act, was denied in the 2015 Constitution.
  - **Discriminatory citizenship rights for women have especially affected Madhesi communities in Nepal's southern Tarai plains** where inter-marriage across the open border with India is common. Lack of citizenship limits many life opportunities, such as being able to hold high office, and such restrictions compound other constitutional discrepancies for Madhesi communities more broadly, for example, regarding federal demarcation and political under-representation.
  - **Remarkable progress in institutionalising sexual and gender minority rights has been achieved through effective mobilisation and advocacy** by movements such as the Blue Diamond Society. This is despite sexual minorities habitually having been overlooked in the gender discourse in Nepal. Advances have included constitutional commitments and the introduction of sexual and gender diversity in the school curriculum. But sexual minorities still continue to face significant legislative barriers and social stigmatisation.
  - **The Maoist insurgency had a significant impact on intersectional inclusion and gender equality in Nepal, but gains have been offset by limitations regarding gender roles and status.** The Maoists' commitment to women's emancipation helped raise awareness. Large numbers of women joined the Maoist People's Liberation Army, especially from marginalised caste and ethnic groups. But the senior Maoist leadership has remained all men. Women ex-combatants have faced severe challenges in the post-war transition, as demobilisation mechanisms have largely failed to cater for their specific needs regarding rehabilitation and reintegration.

# Peace process

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The 2006 Comprehensive Peace Accord (CPA) marked the end of the decade-long Maoist insurgency and ushered in the 'post-conflict' era. But numerous other conflicts subsequently arose, violent and non-violent, led by actors who felt left out of the CPA process and the emerging consensus on the trajectory of the unfolding transition. Despite multiple political agreements since then, including a new constitution promulgated in September 2015, many marginalised groups and many women continue to struggle for recognition of their rights.

Nepal is a country of minorities. It is home to 125 different caste or ethnic groups that speak 123 recognised languages, follow at least ten different religions, and live in three distinct ecological zones that span altitudes from near sea level to the highest point on earth. A dominant minority (31 per cent of the population) comprises hill-origin 'upper-caste' groups, now called the Khas-Arya. Three other macro-ethnic groups, Dalits, Janajatis and Madhesis, are comparatively subordinate. All of these groups comprise smaller caste or ethnic categories. Gender relations in Nepal reflect this great diversity.

Analysis of conflict and peacebuilding in Nepal in general has tended to lack a gender perspective. Workshop discussions stressed that understanding of gender, conflict and peace in Nepal has often been skewed, for instance over-emphasising gender perspectives that frame women as victims of violence. At a policy level, gender and social inclusion have increasingly been incorporated into Nepal's institutions, and the importance of gender and intersectional issues is broadly acknowledged in relation to development – even if actual implementation is still very weak.

## 'People's War'

Many workshop participants concurred that the Maoist 'People's War' had a strong impact on inclusion and on gender equality. The Maoists were quite successful in mobilising poor and marginalised communities, including women, who had been facing various forms of discrimination, exclusion and exploitation. Their promise to eliminate social and political inequalities, and ensure women's liberation from patriarchal oppression, contributed to raising consciousness about the socio-economic, political and cultural status of these groups as well as of their rights and roles.

The Maoists were able to attract a large number of women into their People's Liberation Army (PLA), especially from Dalit and Janajati groups. While a majority of women PLA members were foot soldiers, some also reached middle leadership positions. As one of the workshop participants pointed out, women would often be found in the frontlines of the war. The participation of women in fighting changed the traditional belief that women simply belong in the domestic realm. Some women participants at the workshop further stressed that, with men involved in the conflict or having migrated to avoid it, women also took up many roles once considered the exclusive domain of men, such as ploughing fields – previously a taboo in many communities. However, the senior Maoist leadership has comprised only men.

The Nepali state and its international development partners also could not ignore that the Maoists had been able to capitalise on the grievances of women and other marginalised and excluded groups. In response, government programmes became more focused towards these groups' interests, reflected in modifications made to government policies and laws.<sup>1</sup>

1. Thapa, D. 2017. 'Stability or social justice? Political settlements in Nepal'. In D. Thapa and A. Ramsbotham (eds), *Two steps forward, one step back: The Nepal peace process*, Accord Issue 26, Conciliation Resources, London.

These changes and improvements reflected that women were not just passive citizens in need of state welfare and assistance but just as competent as men and able to become crucial agents for creating movements and social transformation. The 1999 Local Self-Governance Act made provisions for the mandatory election of at least one female member in each ward of each Village Development Committee (VDC) and municipality. Another milestone was the formation of the National Women's Commission in 2002, shortly after which the 11th Country Code Amendment Bill was passed, allowing women equal rights over parental property (although the property would have to be returned upon marriage), and also legalising abortion.

## Peace process

Advances in institutionalising gender equality accelerated in the period following the April 2006 People's Movement through the introduction of a number of legislative measures. The People's Movement preceded the CPA negotiations and involved diverse sections of society and political actors joining together in a mass mobilisation against the monarchy, which had usurped power a few years earlier. The success of the People's Movement precipitated the end of the war and laid the ground for a conducive environment allowing for transformative politics and, by extension, a more equitable society.

A highly significant development in gender terms was the 2006 Gender Equality Act – formally titled the 'Act to Amend Some Nepal Acts for Maintaining Gender Equality'. This amended existing laws to criminalise marital rape while women were given the right to make use of property without seeking the consent of their male family members. Other laws were also changed, such as daughters being considered part of the family in relation to land rights; the Nepal Citizenship Act 2006, which removed discriminatory provisions that limited the right of women to pass on citizenship to their offspring; and the enactment of the law against domestic violence in 2008.

With regard to women's participation in the peace process, not even the top women leaders of the political parties, including the current president of the country,<sup>2</sup> was represented in the peace negotiations and the agreement process. On one occasion, our inter-party network of women parliamentarians intruded into an important meeting of the political party leadership and pressurised the leadership to ensure the participation of the current president in such meetings. But, to my knowledge, she was never invited back.

Workshop participant

Women, however, were conspicuously absent from consultations and at the formal negotiation table relating to the Maoist war.<sup>3</sup> Such exclusion drew particular criticism in relation to the Maoists due to their averred progressive agenda. For example, the Maoists' five-member negotiating team for the 2003 ceasefire did not include a single woman, prompting a prominent woman activist to write an open letter to the Maoists, stating: 'We never expected our male-dominated government to involve women in the peace process, but we thought you were going to be different.'<sup>4</sup>

In the post-2006 period, Local Peace Committees (LPCs) were formed at the district, municipal and village levels to encourage inclusive, devolved efforts at peacemaking and peacebuilding, mainly through dialogue. It was mandated that at least a third of the LPC members be women. Women LPC members could have played a key role in the transition period, given the LPCs' objectives of facilitating the implementation of

2. President Bidhya Devi Bhandari had been a prominent leader of the Communist Party of Nepal (Unified Marxist-Leninist) until her elevation to the presidency in October 2015.
3. Ariño, M. V. 2008. 'Nepal: A gender view of the armed conflict and the peace process.' *Quaderns de Construcció de Pau* 4. See also Diaz, P. C. 2010. *Women's Participation in Peace Negotiations: Connections between Presence and Influence*. United Nations Development Fund for Women.
4. Aruna Uprety, cited in J. Pettigrew and S. Shneiderman. 2003. 'Women and the Maoists: Ideology and Agency in Nepal's Maoist Movement', *Himal Southasian*, January.

the CPA through measures such as assisting in collecting information on conflict-affected people, monitoring relief and reconstruction, as well as promoting reconciliation, healing and trust-building. Unfortunately, many participants at the workshop stressed that access to the committees was based mainly on proximity to political parties, and in fact came at the cost of greater inclusivity, such that women in the LPCs could not provide an independent voice.

## Women ex-combatants

Most workshop participants agreed that women ex-combatants have faced some of the gravest challenges in the transition period. The demobilisation mechanisms included in the CPA largely failed to cater for the special needs of female former fighters in terms of rehabilitation and reintegration. Female ex-combatants who were not absorbed into the Nepali Army continue

to face great difficulties reintegrating back into society. Most women ex-combatants hail from relatively poor families and from underdeveloped regions. Very few have received higher education, limiting their employment opportunities, which, combined with the fact that many women ex-combatants are also responsible for taking care of their children, further exacerbates their poor economic situation.

Women ex-combatants' violent past presents a major challenge for reintegrating back into society. Many women ex-combatants and their families face psychosocial problems, emanating from their experiences of the conflict. A workshop participant recalled that, during their involvement in four health camps run by Nepal's Peace Secretariat in the cantonments where combatants were housed for four years following the signing of the CPA, a total of 740 combatants sought psychosocial counselling – most of them women.



Women from the highly marginalised Badi community at a protest rally in Kathmandu, August 2007. © Kiran Panday

Given that there were many cases of cross-caste or cross-ethnic marriages among PLA fighters during the conflict, women ex-combatants have not found it easy to be accepted by communities and families back home. As was also pointed out at the workshop, Dalit women fighters who married men from other social groups have in many instances been denied property rights, particularly after the death of their husbands.

## Transitional justice

Transitional justice has been among the least successful components of Nepal's peace process. The Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP) were established in 2014, nearly eight years after the CPA. The commissions have been severely criticised by groups representing victims, human rights organisations and international bodies, particularly over issues of amnesty. The TRC and the CIEDP have received nearly 60,000 complaints and, given the pace of progress to date, conflict survivors fear whether justice will ever be delivered. Supreme Court orders to amend the act establishing these two bodies to bring it into line with Nepal's constitution and international obligations have been also been ignored to date.

Workshop participants asserted that many human rights violations against women during the insurgency have gone unreported and unrecorded. Dalit participants at the workshop described the particular inequity they faced. TRC teams have been to various districts, but since Dalit families generally live in remote areas, they have not been able to record their cases. Workshop participants also pointed out that many women would be uncomfortable and reluctant to share their experiences with the (generally male) TRC teams and, in the absence of any associated protection system, would also fear reprisals.

# Transition

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## Women's movement

Women's organisations were active throughout the partyless Panchayat regime (1960–90 – an ostensibly 'Nepali' version of democracy that in reality concentrated power in the monarchy) as distinct wings of the banned political parties. But as Shrestha and others have pointed out, they focused on pushing the broader agenda of political parties, rather than on women's rights per se.<sup>5</sup> This emphasis on broad political gains both reflected and impacted on how relations between genders were viewed. For centuries, Nepal's dominant Hindu caste ideology had restricted the rights of women. The 1962 Constitution for the first time provided all Nepali citizens with equal rights. But the continued political supremacy of the Hindu religion and the Nepali language, along with the monopoly over power wielded by Hindu 'high-caste' men, meant that the exclusion of women persisted.

The political change of 1990 and the return to multiparty democracy opened up opportunities for women by, for instance, introducing the requirement of equal pay for men and women, and making it mandatory for five per cent of candidates in parliamentary elections to be women. Many forms of discrimination endured, notably regarding property and citizenship rights. The post-1990 period enabled civil society groups to speak for women's rights. But as Tamang and others have stressed, because Hindu 'high-caste' women dominated such groups, they were not able to draw attention to priorities of women from marginalised communities. Similar challenges among women political leaders, which also incorporated broader trends of intersectional and systemic discrimination, ultimately led Dalit and Janajati women activists to organise for their rights independently.<sup>6</sup>

5. Shrestha, S. 1997. 'Nepalma Mahila Andolanko Disha Sambhandhi Kehi Kura' (Some Observations Regarding the Director of Nepal's Women's Movement). *Studies in Nepali History and Society* 2, 2: 301-305.

6. Tamang, S. 2011. 'Exclusionary processes and constitution building in Nepal.' *International Journal on Minority and Group Rights* 18, 3: 293-308.



Workshop participants acknowledged the contribution of civil society and especially women's groups to the inclusion of women in national politics and constitution-making in the post-war era. Following the adoption of the Interim Constitution in 2007, women's groups led workshops, discussion programmes and other interactions at the district level and below to inform local people about the Constituent Assembly elections and the key issues that would have a bearing on women in the new constitution. They also advocated inclusive representation in the Constituent Assembly through various means. The 33 per cent representation of women in the first Constituent Assembly (2008–12) was an outcome of this steady pressure from women's groups.

The pace of progress of inclusion slowed down as the post-war transition proceeded, delayed by strong resistance led by conservative elites. Reactionary forces portrayed the political recognition of identity as divisive and the demand for equal citizenship rights for women as a gateway for mass immigration into Nepal, especially of Indian men through marriage.

## Representation and participation

Post-war legislation and policies have been a focus for advancing women's rights and gender equality. The Interim Constitution of 2007 was progressive in terms of gender equality and social inclusion more broadly, providing all marginalised sections of society with equal opportunities. Article 138 asserts that 'the state shall be made inclusive and restructured into a progressive, democratic federal system', in order to 'bring an end to discrimination based on class, caste, language, gender, culture, religion and region by eliminating the centralised and unitary form of the state'.

The Three-Year Interim Plan (2007/08–09/10), drafted after the Interim Constitution and the CPA, incorporated the concept of reservations and affirmative action for women, and designed plans and programmes accordingly to ensure their equal participation in different sectors. The 2007 amendment to the Civil Service Act set aside 45 per cent of civil service positions for different marginalised groups. This quota system, as most of the workshop participants agreed, is crucial and needs to be retained to enable women and others to reach a competitive stage.

As many of the participants in the workshop argued, although substantive representation is still a long way off in Nepal, there has been very significant progress for women since the end of the war in 2006. In the legislature, for example, women's representation increased from zero in the first general election in 1959 to 197 women of a total 601 members (just under 33 per cent) in the 2008 Constituent Assembly, mainly due to the electoral system adopted in the Interim Constitution.

Nepal's mixed electoral system combined elements of first-past-the-post (FPTP) and proportional representation. Participants agreed that the PR component, which has fixed quotas for women and different social groups, is essential for increasing the representation of women and excluded communities. Women have led a number of important thematic committees in the Constituent Assemblies, such as on Fundamental Rights and Directive Principles, and on Natural Resources, Financial Rights and Revenue Sharing. In the election to the second Constituent Assembly in 2013, women secured fewer seats, around 30 per cent, but were elected to senior positions such as Speaker (now Speaker of Parliament) and President (Nepal has a parliamentary system with the prime minister as the chief executive while the President is the nominal head of state). In April 2016, a woman was also appointed head of the Supreme Court. Most workshop participants agreed that these advances would not have been possible without the Maoist insurgency and the political change of 2006, not to mention the active support of the international community.

A former female Constituent Assembly member participating in the workshop stressed that the participation of so many women in the Constituent Assembly also ensured that pro-women provisions were included in the 2015 Constitution. But while workshop participants agreed that the presence of women in high office helps to inspire future generations, they also reiterated a prevalent dissatisfaction among many Nepali women that women's representation is still overly symbolic. For example, during the drafting of the constitution women's impact on decision-making was not commensurate with their formal roles, since contentious issues remained the preserve of the senior (male) leadership of the major political parties.



Nabina Lama (currently chairperson of the All Nepal National Free Students' Union) celebrating the declaration of Nepal as a republic, May 2008. © Kiran Panday

Not only quantity, we also need to think about quality representation.

Workshop participant

Participants highlighted the need for serious discussion on how to support progress towards more meaningful representation, how to boost representation for particular communities and who should represent them. A major impediment has been that political parties, and especially their leaders, do not support constitutional commitments to change, or actively block them. For example, despite having played a positive role in the first Constituent Assembly, the Women's Caucus was proscribed in the second. Many workshop participants concurred over problems with the selection process for the proportional representation component of the election, which in reality is often largely determined by candidates' closeness to powerful party leaders. Women candidates are also frequently chosen to contest elections in constituencies where they are less likely to win. Elections have become very expensive and most women candidates are financially less able to compete.

Women's political participation also faces intersectional challenges. A Dalit participant at the workshop highlighted the more fundamental problem stemming from societal attitudes towards Dalits. Despite expanded legal protection against caste discrimination, Dalits continue to be undermined when it comes to electoral office. The participant mentioned cases where 'upper-caste' party cadre would not campaign for Dalit candidates, and reportedly do not even vote for them, a problem that appears to be prevalent across the country. For Dalit women, the barriers to progress are even higher.

Nevertheless, legislation has moved forward and resulted in tangible differences for women from different backgrounds. A notable recent example has been the Local Level Election Act of 2017, which requires that of the five elected members of each ward committee of village assemblies and municipalities across the country, one has to be a woman of any caste or ethnicity, and another has to be a Dalit woman.

This has resulted in around 7,000 women and another 7,000 Dalit women holding elected office in Nepal, a situation that was unimaginable just a few years ago.

Today, gender has been mainstreamed in various ministries, district and local-level government departments and public-sector projects. For example, the 36,000-strong Armed Police Force (APF) now includes around 2,000 women, and the practice of referring to the latter as 'women APF' has been dropped in favour of calling everyone 'APF'. More than 200 police posts with gender-friendly facilities have been constructed since the beginning of the peace process. Participants at the workshop agreed that these were significant achievements for women in Nepal, even though there are still critical issues remaining to be addressed.

There cannot be an equal fight on an unequal playing field.

Workshop participant

Workshop participants also noted changes in social norms, referring to the practice of untouchability. The enactment of the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act in 2011 has been a significant step towards the protection of Dalits, and particularly for Dalit women who faced multiple levels of discrimination due to their gender as well as caste. It was also pointed out that a sense of empowerment has permeated Dalits and there is no longer the same kind of stigma attached. However, participants were again sceptical of the legal progress and especially that laws would be implemented:

**"The new constitution for marginalised groups like Dalits is like a mirror. *Herda aina, chhamda chhaina.*" [It seems to reflect all your aspirations but in reality there is nothing.]**

Workshop participant

## Sexual minorities

Sexual and gender minorities like lesbian, gay, bisexual, transgender and intersex (LGBTI) have habitually been overlooked in the discourse related to gender protection and promotion in Nepal. As a workshop participant belonging to a sexual minority argued, there is widespread understanding that gender is something related to either 'women' or 'women and men'.

Sexual minority groups in Nepal started demanding their rights after the reinstatement of democracy in 1990. After 2001 that they began openly organising for recognition of their rights, with the movement sparked by the rape of two transvestites by state security forces. The same year, a small group of activists initiated the 'Break the Silence' campaign with the aim of raising the suppressed voice of LGBTI people, which led to the establishment of the Blue Diamond Society, the first national NGO established to advocate for LGBTI rights. Activism remains risky. From 2003 to 2006, nearly 100 LGBTI people were attacked by the security forces in what has been termed 'sexual cleansing'.<sup>7</sup> These atrocities occurred during a period when the security forces had been provided with unchecked power in the name of fighting the Maoist insurgency, including the declaration of a state of emergency in 2001–02.

Despite initial resistance by the government, the post-2006 has seen a great deal of progress in terms of institutionalising LGBTI rights. In a landmark judgement in 2007, the Supreme Court granted basic rights to sexual and gender minorities and recognised third gender as a new category entitled to citizenship. The Three-Year Interim Plan (2007/08–2009/10) also committed to the social inclusion of minority groups, including the LGBTI community. Progressive steps have included the introduction of sexual and gender diversity in the school curriculum, and the inclusion of 'Other' along with 'Male' and 'Female' as gender categories in official documents such as those relating to immigration.

Most political parties' manifestos now also refer to LGBTI issues following the lobbying of advocacy groups. Sunil Babu Pant, the founder of the Blue Diamond Society and a member of the 2008 Constituent Assembly, even became Asia's first openly gay national-level elected official. Nepal made history as the first country in Asia and the third in the world to provide equal rights and protection to the LGBTI community from discrimination, violence and abuse. Article 12 of the 2015 Constitution allows people to choose a preferred gender identity for their citizenship, while Articles 18 and 42 guarantee rights of 'Equality' and 'Social Justice' to sexual and gender minorities, opening avenues for participation in state mechanisms and public services. In the run-up to the local elections being held in May and June 2017, the Election Commission announced that there were 143 third-gender eligible voters, along with 6.99 million men and 7.07 million women.<sup>8</sup>

Still, barriers to participation persist, such as the case of a transgender person not being allowed to file candidacy for Deputy Mayor of a municipality in western Nepal. Her rejection was on the grounds that her formal identity as 'third gender' in her citizenship card did not meet the provisions of the electoral law, which requires that at least one of any party's candidates for the two senior positions be a woman – although the law says nothing on the gender requirements of the other candidate.<sup>9</sup> A workshop participant belonging to a sexual minority stressed that, while the LGBTI community still faces stigmatisation in society, the legal and constitutional recognition of LGBTI identity and citizenship rights has helped the community to be able to 'feel proud' of who they are.

7. Knight, K. 2014. 'How Sunil Pant ignited a queer rights movement in Nepal', *Caravan*. [www.caravanmagazine.in/reportage/spark](http://www.caravanmagazine.in/reportage/spark)

8. 'Grassroots Democracy', *Nepali Times*, 12-18 May 2017, <http://nepalitimes.com/page/political-power-of-the-ballot-local-elections-nepal>

9. Subedi, A. 2017. 'Third gender barred from contesting poll', *My Republica*, 5 May.

## International involvement

Recourse to international agreements and frameworks has provided important impetus for the advancement of women's rights and for positive policy changes and institutional developments more broadly, before, during, and after the war. Following the signing of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1991, for example, the Eighth Five-Year Plan (1992–97) aimed to increase women's participation in the public arena. The Ninth Plan (1997–2002) subsequently emphasised gender equality and women's empowerment as a means to increase political, economic and development access, and for the first time specified that 20 per cent of employment opportunities in the public sector be provided to women. The Tenth Five-Year Plan (2002–07) identified 'social inclusion' as the 'third pillar of poverty reduction' and brought women and with marginalised and 'backward' communities to the centre of development to reduce disparities.

During the Maoist insurgency in 2000, as violence engulfed more of the country, Nepal adopted UN Security Council Resolution (UNSCR) 1325 to increase women's participation in peacebuilding, and secure protection of women from human rights violations from both state and insurgent parties. In 2008 it also adopted the UN Security Council Resolution 1820, which reinforces UNSCR 1325 and demands parties to armed conflict take appropriate measures to protect civilians from sexual violence, including training troops and enforcing disciplinary measures.

Many participants in the workshop highlighted the crucial role of civil society women's rights groups in raising pressure to ensure these UN resolutions were adopted. Other participants stressed that international commitments have been very important and have had far-reaching consequences in terms of protection of women both in the peace process and the sporadic conflicts that have erupted since 2006.

However, Dalit participants at the workshop complained that their concerns do not receive the same level of international attention as other excluded groups like people with disabilities, LGBTI people, women and indigenous groups. They believed that this is because Dalit issues are not linked to international discourses beyond the regional level.

The movements of people with disabilities and sexual minorities have achieved more attention in a short span of time as they have also been linked to international movements. While such issues immediately resound in the headquarters of donors, issues regarding Dalits are not recognised or prioritised in international forums.

Workshop participant

## 2015 earthquakes and a period of intense political change

2015 was a year of 'intense transition' in Nepal. Two events in 2015 had a significant impact on Nepali politics, society and gender equality, both positive and negative. The first was the devastating earthquakes of April and May that affected 31 of the country's 75 districts in the central and eastern hills of Nepal. The response to the earthquakes exposed differential patterns of political and geographic access in terms of relief and recovery. The earthquakes added urgency to the stalled constitution-drafting process that had been ongoing since 2008, and spurred the major political parties to work together to 'fast-track' agreement on a constitution within five months.

The second event resulted from the first, and was caused by the disenchantment among the Madhesi population in the Tarai that their concerns, particularly regarding federalism, were being ignored by the major parties in the constitutional process. In the period before and after the promulgation of the new constitution in September 2015, the Tarai was engulfed in protests that eventually led to the shutdown of the border with India for more than four months and a severe shortage of essential supplies throughout the country.

### Earthquake

The 2015 earthquake caused extensive structural damage to more than half a million houses. Nearly 9,000 people were killed in the earthquake, with around 22,000 people injured. A third of the country's population was affected.<sup>10</sup>

*"The policies are all good but the intentions are bad."*

**Workshop participant**

Women's participation in post-disaster response was discussed at the workshop. Gender issues have been recognised and included in existing or newly drafted mechanisms to guide the recovery phase,<sup>11</sup> and consist of gender-sensitive

budgeting as well as focused strategies aimed at women. However, a number of participants expressed a lack of confidence that policies would actually be implemented.

Such concerns come from experience. Despite the commitments enshrined in policies and strategies for ensuring the participation and inclusion of vulnerable groups like women in planning, implementation, and monitoring and evaluation activities related to recovery and reconstruction, their representation in structures such as the National Reconstruction Authority is weak or missing entirely.

Many workshop participants argued that, as in other contexts, there is a lack of understanding of gendered vulnerabilities to disasters, resulting from deeply rooted patriarchal mentality, conservative social norms, and negative attitudes and mindsets among many government officials. For example, much of the earthquake relief was distributed through District Disaster Relief Committees. Often, these predominantly comprised men from elite communities, many of whom have been accused of ignoring the interests of women and other excluded minorities. Families headed by single women were particularly vulnerable, finding it difficult to access relief or even be identified as earthquake-affected 'household heads', since the Central Bureau of Statistics' assessment of earthquake victims was affected by existing discrimination regarding women's citizenship and recognition as legal beneficiaries.<sup>12</sup>

Workshop participants further stressed that even many gender focal point personnel, who are employed to advocate gender rights in the recovery process, lack the capacity or authority to influence important decisions. Many participants suggested that there is a strong perception that the agenda related to gender sensitivity has been pushed by donors, but has not been matched by commitment by the Nepali Government either in formulation and implementing of policies and strategies.

10. National Planning Commission. 2015. *Nepal earthquake 2015: Post Disaster Needs Assessment Executive Summary*. Kathmandu: National Planning Commission.

11. For instance, the National Strategy for Disaster Risk Management, National Disaster Response Framework (NDRF), the Post-Disaster Needs Assessment, Post-Disaster Recovery Framework, and the National Reconstruction Authority.

12. Lord, A. and S. Moktan 2017. Uncertain aftermath: Political impacts of the 2015 earthquakes in Nepal. In D. Thapa and A. Ramsbotham (eds), *Two steps forward, one step back: The Nepal peace process*, Accord Issue 26, Conciliation Resources, London.

## Madhes Movement



Women joining the sit-in at the Nepal-India border at Birgunj during the 2015-16 Madhes Movement. © Bhusan Yadav

The drafting and promulgation of the new constitution of Nepal received very mixed reactions from women, Madhesis and Janajatis. Women were particularly incensed that rights guaranteed in the 2006 Citizenship Act had now been curtailed, since the 2015 Constitution took away the right of women to pass on citizenship to their children independent of their father's nationality or identity. Given the long tradition of inter-marriage across Nepal's border with India, which is particularly widespread in the Tarai, this provision was especially discriminatory towards Madhesis, since children born to Madhesi women married to Indian men are not eligible to pass on citizenship – along with the advantages it confers, such as being able to hold high office – to their children.<sup>13</sup>

Successive Nepali governments have long neglected historical grievances felt by Madhesis. The Madhes Movement of 2006–07 brought recognition of Madhesi interests into the political mainstream. But that movement did not focus on gender concerns. Madhesi women were subsequently roused into action by the discriminatory citizenship provision in the 2015 Constitution. Large numbers of Madhesi women participated in anti-government demonstrations, including defying curfews and leading protest

rallies. Even though leadership positions in the 2015 Madhes Movement remained firmly in the hands of men, the massive involvement of women undercut the perception that Madhesi women are suppressed and forced to live behind the veil. Six women lost their lives during the 2015 movement, leading to one commentator's emphatic assessment that: 'Never in history had Madhesi women taken part in public demonstrations like they did in the 2015 Madhes movement.'<sup>14</sup>

The biggest impact of the 2015 Madhes Movement was the closure of the Nepal-India border. While the resultant disruption to supplies of goods to Kathmandu and other cities outside Tarai received significant and sustained attention from national media, the political elite and civil society, the same difficulties faced by people in the Tarai got much less coverage. Madhesi participants at the workshop emphasised that the shutdown affected Madhesis at least as much as other communities. Women in the Tarai were hit especially hard. Those who depended on wage labour had to struggle to make ends meet when economic activities were curtailed due to the border protest and blockade that cut off fuel, construction materials and other key supplies. Many Madhesi women had to manage the household in a situation of deprivation, while schools also remained closed in the Tarai, adding an extra source of worry for parents.



Madhesi women join protests in Birgunj with brooms and black flags. © Bhusan Yadav

13. Kharel, S, D. Thapa, and B. Sijapati. 2016. *A Country of Minorities*. South Asia State of Minorities Report 2016 Mapping the Terrain, South Asia State of Minorities Report Collective.

14. Sah, R. 2017. 'Feminism in the margins, a Madhesi perspective', *The Kathmandu Post*, 18 February.

# Conclusion

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Through the war and the peace process there have been significant policy changes with regard to gender and social inclusion in Nepal. Participation and representation have improved significantly after the political transition associated with the end of the 'People's War'. Still, major challenges remain to ensure meaningful inclusion and gender equality, and there is a way to go to internalise these issues in Nepali politics, civil society and bureaucracy.

Equal opportunities and capacity building are preconditions to ensuring participation and influence for women. More openings need to be created to strengthen Nepali women's political access and influence and build their leadership, including proactive emphasis on ensuring that women reach policy-making levels. This is only possible by supporting women to acquire the necessary tools to succeed at higher levels and by mobilising support for issues of concern to them.

In order to achieve gender equality in a country historically characterised by unequal and gendered power relations, positive discrimination and affirmative action are essential. For the full potential of measures such as quotas for women in public office to be realised, they need to be accompanied by greater awareness and sensitisation about the need for appropriate policies, starting with government officials but also reaching out to important identity groups, such as young people.

Workshop discussions suggested that excluded groups in Nepal too often act in isolation of each other, even though many of their objectives are commonly held. Discussions highlighted some of the intersectional challenges relating to gender

in Nepal – for example, regarding experiences of women from different ethnic or class groups. The lack of more unified analysis and advocacy, not only to raise awareness of challenges but also to identify solutions, has been a barrier to consolidated progress. This should not imply disregarding or denying diversity and the particular priorities of various communities; instead it is about establishing a foundation of solidarity and collaboration from which to create space for different interests and requirements.

A persistent obstacle to change has been the failure to implement constitutional or legislative commitments to reform. More concerted pressure on decision-makers, combined with greater representation of women and minorities at senior levels in political parties and in the bureaucracy, can help bridge this gap. Deliberate efforts to suppress minority influence, such as the prohibition of cross-party caucuses, need to be confronted.

International bodies and institutions, donors and international NGOs have and must continue to provide vital support for inclusive change and greater gender equality. They need to ensure their efforts navigate Nepal's *realpolitik*, and are not dismissed as alien, unsuitable or divisive. Initiatives need to be carefully aligned with local priorities and sensitivities, inclusion needs to be incentivised through all levels of the bureaucracy, and advocates for progressive change need to be identified and encouraged among the traditional political elite. Such efforts should also acknowledge the grave injustices and particular risks faced by sexual and gender minorities and ensure their inclusion.



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## Gender and Nepal's transition from war

This report summarises discussions from a workshop to explore gender relations and equality and Nepal's transition from war.

Focus areas include: affirmative gender action in the transition; gender perspectives on security sector reform, access to justice and political participation; gendered experiences, expectations and priorities of marginalised groups; how different identities intersect; and the role of international support. A short case study of the period of intense political change that followed the 2015 earthquakes in Nepal provides an illustrative example of opportunities and challenges.

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