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NEPAL: A SITUATIONAL ANALYSIS OF WOMEN'S PARTICIPATION IN PEACE PROCESSES

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SARAH HEWITT

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SUMMARY

Despite women’s active representation and participation in the ‘People’s War’ (1996-2006) and the 2006 peaceful protests (Jana Andolan II) that led to the peace process, women were not included in any of the peace negotiations. However, due to the pressure from the women’s movement, four women were eventually included in the interim constitution-making process that eventually led to a 33 per cent gender quota and the unprecedented election of 167 women to the Constituent Assembly in 2007. Nepal’s final Constitution was adopted in September 2015 after nearly a decade of negotiations and contains key enabling gender provisions to advance women’s rights and gender equality. Yet despite positive changes on paper, lack of implementation and access to decision-making power has hindered women’s influence in the political sphere. Furthermore, patriarchal hierarchies and continued discrimination based on gender and caste constrains women’s participation in political and economic spheres.

STRENGTH OF GENDER PROVISIONS

Nepal Comprehensive Peace Agreement 2006

	0 None	1 Weakest	2	3	4	5 Strongest
Human Rights		✓				
Development	✓					
Post-Conflict Issues	✓					
Violence Against Women			✓			
Participation	✓					
General	✓					

Nepal Seven Point Agreement 2011

	0 None	1 Weakest	2	3	4	5 Strongest
Human Rights	✓					
Development	✓					
Post-Conflict Issues	✓					
Violence Against Women	✓					
Participation	✓					
General	✓					

Nepal Constitution 2015

	0 None	1 Weakest	2	3	4	5 Strongest
Human Rights				✓		
Development			✓			
Post-Conflict Issues	✓					
Violence Against Women				✓		
Participation					✓	
General	✓					

WOMEN’S PARTICIPATION: KEY CONSTRAINTS AND ENABLERS

CONSTRAINTS

1. Patriarchal social structures, attitudes and hierarchies
2. Discriminatory citizenship rights
3. Lack of implementation of gender provisions and gender-sensitive legislation

ENABLERS

1. Gender provisions in constitutions
2. Women’s symbolic representation and leadership
3. Women’s civil society



The most revolutionary provision for women's participation in Nepal was mandating proportional inclusion and positive discrimination within state institutions.

BACKGROUND TO THE CONFLICT

Nepal has been caught in an internal struggle for six decades with failed attempts at democratisation in the 1950s and 1990s, a monarchical dictatorship that lasted 30 years and a decade-long civil war (von Einsiedel, Malone and Pradhan 2012). The roots of the Maoist insurgency (1996-2006) stem from the turbulent transition from a monarchical system to a constitutional monarchy under a multi-party democratic system in 1990, which was established after protests for democracy via the first People's Movement. However, this first democratic system was flawed with vague power sharing arrangements, failure to address structural issues and injustices, and a divided political landscape.

It was against this backdrop that the Communist Party of Nepal - Maoists (CPN-M) launched the 'People's War' against this elite parliamentary multi-party democracy (UCDP 2016c). The goal of the party was to eliminate all kinds of discrimination and to create a new egalitarian society (Yadav 2016: 5). Endemic poverty and group inequality and marginalisation faced by different groups in the political, economic and social spheres were key structural grievances for the onset of conflict, stemming from exclusion based on caste, religion, ethnicity, geographic location and gender (von Einsiedel, Malone and Pradhan 2012: 26). The Maoists actively encouraged identity politics to mobilise various marginalised identities, such as the Madhesis in the Terai (plains) area.

The Maoists had popular participation during the People's War numbering somewhere between 10,000-18,000 full time fighters at its peak, with a political following of several hundred thousand. With growing unpopularity and two coup d'états by then King Gyanendra, the mainstream political parties formed a coalition, the Seven Party Alliance (SPA), to present a unified front against the monarchy and set the stage for the 2006 non-violent uprising: the second People's Movement (Jana Andolan II). The widespread movement forced the King to reinstate the parliament and resume the so far unsuccessful peace process. This culminated in the signing of the Comprehensive Peace Agreement (CPA) in November 2006 and ultimately the end of the People's War.

WOMEN'S PARTICIPATION IN THE PEACE PROCESS

Despite women's active representation and participation in the Peoples War and the second People's Movement (Jana Andolan II) women were not included in peace negotiations, contrary to the Maoists emphasis on women's empowerment (Ariño 2008: 10; Yadav 2016: 61). There were no female signatories to the CPA, and initially, not a single woman from either the Government or the Maoists were included in the six-member committee mandated to set up an interim constitution in 2006. Due to external pressure from the women's inter political party alliance, which was supported by women's rights activists and UN agencies, the committee was expanded to include an additional four women that represented four key political parties in Nepal (Yadav 2016: 61). Furthermore, three women were included in the 32 member peace committee, or the 'back up team' (Manchanda 2010: 4).

In a similar fashion, the 2007 interim government initially appointed no women as any of the 27 departmental administrators, subsequently naming some thereafter (Manchanda 2010: 4). Pressure continued throughout the Interim Constitution-making process to mandate women's representation in the new political institutions. As a result, the Interim Constitution incorporated inclusion and proportional representation of 'women, Dalits, Janajatis, Madhesis, and other disadvantaged groups' (Manchanda 2010: 3).

Although the CPA was produced via an all-male led process, the text of the agreement contains some references to women (Ariño 2008: 11). The agreement mentions the need to tackle and resolve problems related to discrimination based on gender, caste, ethnicity, class and region. Furthermore, both sides agreed to protect the rights of women, including halting all acts of violence against women. Notably though, this gender provision groups together, in the often-used phrase, 'women and children.' Maria Ariño (2008: 11) claims that these references to gender and women within the agreement were probably due to women's emancipation being a key idea and practice of the Maoists agenda.

The Interim Constitution included many more provisions for gender and women's rights, addressing issues such as non-discrimination, violence against women (VAW), sexual and reproductive health rights (SRHR), and property rights. The most revolutionary provision for women's participation in Nepal was mandating proportional inclusion and positive discrimination within state institutions, including one third of the Constituent Assembly (CA) being women.

Proportional inclusion extended to marginalised minorities including Dalit, indigenous peoples,

Madhesi and other oppressed groups. This led to the unprecedented election of 197 women (33 per cent) out of 601 CA members via a mixture of first past the post (FPTP) and proportional inclusion (PI) quotas. The first CA was historic as Nepal's Constitution was thus going to be written with significant representation of marginalised groups including women, Dalits, indigenous groups, Madhesi, Muslims and other marginalised communities.

Nepal's Final Constitution was adopted in September 2015 after nearly a decade of negotiations and two CA elections. It is the first country in South Asia and one of few worldwide that contains provisions against discrimination of 'sexual minorities' (LGBT). It includes similar issues as the Interim Constitution, including non-discrimination, SRHR, women's empowerment and property rights. It maintains proportional representation reserving 33 per cent of government positions and parliamentary seats for women (Constitution of Nepal, 2015, Article 84 (8)). Moreover, three seats are reserved for women in the 59 member National Assembly and eight members are to be elected from each of the seven provinces (Article 86 (2.a)).

Additionally, out of three members that the President nominates to the upper house, at least one must be a woman (Article 86(2.b)). Furthermore, the Constitution stipulates that the President and the Vice President must be either a different gender or from a different community (Article 70). Within the Federal Parliament, either the Speaker or the Deputy Speaker in the House of Representatives must be a woman (Article 91) and either the Chairperson or the Vice Chairperson of the National Assembly must be a woman (Article 92).

Probably the most contentious issue in the writing and drafting of the Interim and Final Constitution was around citizenship and the fact that Nepali women who have a child with a foreign man cannot confer Nepali citizenship onto their child. However, Nepali men who marry foreign women can. Furthermore, restrictions on holding office are placed on children who are borne of a Nepali woman and a foreign man. This is despite active advocacy and activism by the women's movement during the constitution-making process. This failure to accord women equal rights to pass nationality onto their children continues to place women as second-class citizens (Thapa 2015).

Female Constituent Assembly members describe how male politicians do not entrust leadership roles to women. The women's agenda is always superseded by 'more' important issues and discrimination... persists.

WOMEN'S POLITICAL PARTICIPATION BEFORE, DURING AND AFTER CONFLICT

Historically there is a lack of women's descriptive representation (Yadav 2015: 60-61). For instance, in the first democratic election that took place in 1991 only seven women were elected out of 205 members. Quotas for women's representation were mandated at five per cent in the 1990 Constitution, though on several occasions women's representation did not reach this level and never exceeded six per cent (Yadav 2016: 61).

A result of the conflict was the enabling environment for women to participate in politics. Women from a myriad of backgrounds, levels of education, castes, ethnicities, class and religion became representatives of the Nepalese government, a position that many of them had never imagined possible (IDEA 2011). As previously discussed, women's representation increased substantially in 2008 to 33 per cent of the CA, with a mixture of FTPT (30 women) and PI quotas, though this had dropped to 31.97 per cent by September 2011 (Falch 2010: 23; Rana, Rana and Kachhyapati 2011: 214). Around 3,500 women contested the elections and women voters outnumbered men (Falch 2010: 22-23). Although 197 women were elected to the CA, only four (16.67 per cent) were appointed to ministerial positions (Yadav 2016: 62). In interviews by Punam Yadav (2016) with female CA members, women describe how they still face gender-based discrimination and exclusion within the political sphere.

Women are excluded from decision-making positions and proportional inclusion fails to be carried over to ministerial appointments and cabinet. Although there is no doubt that there has been transformation in women's lives, especially at the individual level, and access to politics, female CA members describe how male politicians do not entrust leadership roles to women. The women's agenda is always superseded by 'more' important issues and discrimination based on gender and social status persists (Yadav 2016: 67; Manchanda 2010). This does not negate women's agency and resistance to these patriarchal norms and how women seek to challenge discourses around womanhood and gender (Yadav 2016). This is evident through their victories in passing the Domestic Violence and Punishment Act, which criminalises a wide range of forms of VAW, and the achievement of the National Action Plan on UNSCR1325 and UNSCR1820. Nevertheless, it is vital to not homogenise 'women CA members' as one group as tensions exist between and among women depending on political experience, capacity, education and intersecting identity markers (Yadav 2016: 70). Likewise, it is important to remember that descriptive representation does not necessarily lead to substantive participation, where, as seen in Nepal, women CA members' ability to access decision-making roles and influence decisions is

Only 20 per cent of women own property... women continue to be primarily responsible for reproductive care and work, resulting in many girls dropping out of school, burdened by household chores.

hindered by patriarchal gender norms. Nevertheless, the People's War has had a transformative effect that has opened space for women to participate in the formal, political sphere in a more meaningful and substantive way compared to pre-conflict times (Yadav 2016: 60; Manchanda 2010; IDEA 2011).

WOMEN'S ECONOMIC PARTICIPATION BEFORE, DURING AND AFTER CONFLICT

Nepal's economy was largely based on subsistence farming, household economies and agriculture. However, in the past 20 years, this has changed significantly, where the importance of services and migration has increased, and the importance of agriculture decreased (Sahavagi, Didi Bahini and Feminist Dalit Organizations 2015: 84). Women contribute around 50 per cent of the workforce in Nepal and make up 10-15 per cent of the total migrant population which contributes significantly to Nepal's economy through remittances (UN Women 2013). In 1996, farm income was 61 per cent of a household's economy where as in 2011, farm income only constituted 22 per cent (Sahavagi et al. 2015: 84). Though agriculture has dropped, farming still provides employment for 77 per cent of economically active women (Sahavagi et al. 2015: 84).

Women's economic participation is largely confined to the agriculture and informal sectors, both of which are underpaid, unstable and engenders vulnerability. Women, especially poor women, do not have equal access to the market, facing layers of disadvantage, due to their lack of skills, low asset base, limited education and market information and household burdens (Sahavagi et al. 2015: 84). Women in Nepal are not recognised as active contributors to the economy. Many women work in Nepal's informal sector which affords them little legal protection under labour laws. Women face inhumane working conditions, lack of inheritance and ownership rights, low wages, and very little protection and social security.

Inheritance is a particularly contentious issue with women owning very little land. Even though agriculture has become increasingly feminised, only 20 per cent of women own property (Sahavagi et al. 2015: 167). Women continue to be primarily responsible for reproductive care and work, resulting in many girls dropping out of school, burdened by household chores (Sahavagi et al. 2015: 167). The number of women as heads of households has increased 11 per cent since 2001, representing 25.73 per cent of households. In Nepal, male and female literacy rates stand at 71.6 per cent and 44.5 per cent respectively, pointing to a huge disparity between the two.

WOMEN'S CIVIL SOCIETY PARTICIPATION BEFORE, DURING AND AFTER CONFLICT

Throughout Nepal's recent political history, civil society has been suspended and curtailed for various periods, including during the People's War. During the Panchayat era, the Nepal Women's Organisation (NWO) was one of the Panchayat's six recognised class organisations that served to depoliticise women's concerns, segregating women in the development arena. This corresponded with the international Women in Development (WID) agenda of that period, and framing women's concerns within 'empowerment' discourses (Tamang 2007: 284). Against the backdrop of the wave of democratisation in Eastern Europe and global economic trends and liberalisation during the 1990s, foreign aid was poured into Nepal and the creation of NGOs. Primarily development-orientated and focussed on service delivery, Nepali NGOs began to politicise themselves to take more political responsibility, 'including the delivery of 'democracy' and 'civil society' (Tamang 2009: 70).

Non-government organisations in Nepal that focus on women and/or gender, cover activities from the delivery of development programs, education, and health, to more political activities such as voter education and national lobbying for women's rights (Tamang 2009: 70). In post- Panchayat Nepal, women in leadership, influential and knowledge-producing positions (academics, NGOs, committees) continue to be predominately Bahun, Chhetri and to some extent Newar women. This is largely to do with privilege to education, social and political networks that lead to employment and leadership positions (Tamang 2007: 282; 2009: 70). It has been upper-caste Nepali women who have performed the key role of 'native informants' within the aid bureaucracy, speaking on behalf of 'Nepali woman.' This is despite their privileged experiences being vastly different from those of lower-caste and marginalised ethnicities. By being Nepali and

women, these privileged and elite women are the producers of information about 'Nepali women' and reflect little on their privileged positions (Tamang 2007: 282-283). However, since the peace process, women from marginalised groups such as Janjati, Madhesi and Dalit communities have begun to organise and to highlight their own specificities as 'Nepali' women (Tamang 2009: 72). This brief description of the tensions between women activists is important to acknowledge the heterogeneity of the women's movement in Nepal.

Civil society and NGOs that focus on women's issues, with support of the UN and donors, have emerged as a political force to demand social and political transformation of state, society and gender relations (Sahavagi et al. 2015: 149). In addition to providing a range of services, civil society plays a critical role in monitoring the implementation of the governments development programs, Nepal's NAP, and the implementation of Nepal's peace agreement and constitution.

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