

# Local governance

## Local governance and inclusive peace in Nepal

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Strong and inclusive local governance is a vital building block for countries in post-conflict transition. But when Nepal emerged from the Maoist conflict in 2006, there had been no local elections for more than four years, and there have been none since.

Successive governments have introduced various interim measures to provide some semblance of decentralised governance, but the continuing failure to provide locally elected representation has eroded state legitimacy and prevented communities from realising peace dividends such as enhanced service delivery and inclusive and democratic participation at the local level – factors that are essential for consolidating long-term peace.

### Local governance: roles, responsibilities and prospects

The Local Self-Governance Act (LSGA) 1999 provides the basis for local governance in Nepal. In keeping with the spirit of the restoration of multiparty democracy in 1990, the LSGA was enacted to promote people's participation in local governance through the decentralisation of authority. The LSGA provided local bodies – District Development Committees, and Municipalities or Village Development Committees (VDCs) – with significant autonomy. But, at the time of their dissolution in 2002, local government institutions were weak, beset by problems of insufficient devolution of power and authority, weak institutional capacity, inadequate fiscal decentralisation and resource constraints – to name but a few.

It did not help that the LSGA and its regulations (framed in 2000) were introduced at a time the insurgency was rapidly expanding, and the Maoists' policy of displacing the 'old state' with the 'people's government' meant that local bodies were being specifically targeted. In many conflict-affected districts, VDC offices were attacked, elected representatives were forced to leave their villages, and government functionaries, primarily the

VDC Secretaries, were compelled to operate from district headquarters. By 2002, there was a clear governance vacuum in Maoist-controlled areas, with no local-level representation of the state.

From the perspective of advancing inclusive and participatory democracy, the possibilities for local governance bodies to support the peace process are far-reaching. As the key interface between state and citizens, local bodies have been the subject of measures to make them more inclusive, participatory and democratic. The LSGA and the related Local Government Financial Administration Regulations 1999 (amended in 2007) require that all local bodies give priority to 'user groups' while implementing projects that involve funds less than NPR 6.5 million. These regulations also necessitate that 33 per cent of user groups' membership are women.

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## Local governance post-2006

Guidelines issued by the government in the post-2006 period also mention that during budget allocation and while making investments, local bodies should give priority to policies and programmes that promote gender equality and social inclusion (see *article on inclusive development*, p. 114). Further, all projects implemented through the Local Governance and Community Development Programme have in-built requirements for including Dalits ('low caste'), Janajatis (indigenous peoples) and women. There has been ample evidence suggesting that, compared to central government institutions, local bodies are more representative, accountable and participatory. There have been exceptions, and outcomes have generally been less than might be desired. But local bodies offer opportunities to respond to the socio-economic needs of affected populations in post-conflict Nepal: establishing inclusive forms of governance; giving voice to local populations, including previously marginalised groups, and enhancing their participation in the peacebuilding process; and alleviating tensions that evolved over the 10 years of armed conflict. As a result, the need to hold local elections and restore local bodies has been repeatedly highlighted by both national and international actors.

But despite their importance to long-term peace and democratic consolidation, local governance issues have received comparatively little attention in Nepal's peace process. The last local elections were held in 1997. By the time the term of the local bodies came to an end in July 2002, the Maoist conflict was at its height and the possibility of holding fresh elections was slim. Although the tenure of local administrations could have been extended by one more year, the Nepali Congress (NC) government of the time chose not to.

After the dissolution of elected local bodies, the government authorised civil servants to assume the functions of elected officials in addition to their clerical duties. These civil servants lacked not only the capacity but also the public authority and legitimacy of elected representatives. Further, in much of rural Nepal, VDC Secretaries, targeted by the Maoist rebels, had already fled their duty areas and were essentially carrying out their new roles *in absentia*. An attempt was made to hold municipal elections in 2005, but the political parties opposed this. They feared that elections held during this time of the royal takeover of government would not only sideline them but also delegitimise the electoral process as a whole.

In the post-2006 period, the *Comprehensive Peace Accord* (CPA) focused on elections to the Constituent Assembly and the reintegration of ex-combatants. Local government was accorded a much lower precedence, although one pre-CPA

agreement had mentioned that interim local bodies would be formed though an understanding between the ruling Seven-Party Alliance (SPA) and the Communist Party of Nepal-Maoist (CPN-M). The need to hold periodic elections (including, presumably, local elections) was couched in the CPA under broad language: 'Adopt a political system that fully abides by the universally accepted principles of fundamental human rights, multiparty competitive democratic system ... periodic elections, monitoring by civil society, complete press freedom ...' (Article 3.4). In Constituent Assembly discussions relating to governance, local elections were considered subordinate to issues of state restructuring. Later, with federalism being incorporated into the Interim Constitution, the issue of local bodies was further subsumed within the larger (and as yet not fully resolved) discussion on delineating provinces.

## All-Party Mechanism

The primary response from the government so far to reconstitute local bodies has been the 2008 interim measure, the All-Party Mechanism (APM). APMs were to comprise one representative from each of the seven parties in the SPA, and one from the CPN-M. In fact, this grouping initially comprised eight parties, but with the merger of the two Nepali Congress (NC) factions in September 2007, the number came down to seven. APMs were also to include other political parties that had acquired more than 10 per cent of a district's votes, cast either in the first-past-the-post or the proportional representation component of the Constituent Assembly election.

Despite the formation of APMs, a directive issued by the Ministry of Local Development (now the Ministry of Federal Affairs and Local Development) made it clear that civil servants appointed by the central government were to be the mainstay of the interim arrangement in municipal and VDC bodies. The directive recommended that municipal and VDC council decisions be made in consultation with APMs, although this was not mandatory.

The APMs lacked uniformity, in terms of the number of parties represented in them, their roles, and their relationship with government-appointed civil servants. In some cases, APMs were dominated by the three major political parties – the NC, the Communist Party of Nepal-Unified Marxist-Leninist (UML) and the Maoists – while representatives from other political parties had no say on decisions taken. In some districts, participation in the 2008 Constituent Assembly elections was considered a sufficient precondition for inclusion in the APM, whether or not the parties had won the requisite 10 per cent of the votes.

Membership of APMs also expanded and shrank depending on splits and mergers of political parties, or the periodic

emergence of new parties such as the various incarnations of the Madhesi Janadhikar Forum (Madhesi People's Rights Forum), the Federal Limbuwan State Council, the Tharuwan parties, and other fringe groups. Such variations created further confusion and difficulties in making decisions – not to mention reaching consensus. Further, relationships between political parties and civil servants were almost always strained. Sometimes local administrators – Local Development Officers at the district level, the Executive Officers in municipalities, and VDC Secretaries – exerted significant influence over local governance, often overriding political parties, civil society groups and the general public. In other cases, civil servants were relegated to at best a marginal role.

There were also significant problems regarding the public accountability of political parties. In the absence of elected representatives, APM members were answerable only to their parties and not to the people. As a result, clientelism and nepotism flourished, with members of political parties seeking to appropriate municipal or VDC funds for partisan interests, while civil servants were accused of exercising minimal accountability towards civil society and the broader public. With local institutions functioning effectively as extensions of central government, avenues for downward accountability were also severely compromised.

Amid charges of widespread misuse of local funds, the government disbanded APMs in January 2012, since when no alternative arrangements have been put in place. The failure to hold elections has meant that civil servants continue to assume the functions of locally elected representation, and no mechanisms have been devised to restore legitimacy, build capacity or provide supervision. And, despite having been dissolved, APMs are in fact still active in some places, further eroding trust in state institutions since they lack any formal mandate.

According to the 2015 Constitution, the current arrangement for local governance will continue until new elections can be held. The Constitution has provided for a federal commission to determine the number of local bodies, and successive governments have indicated that local elections will be held before provincial and federal ballots. But with the federal boundary delineation still contested, elected local governance is once again being overshadowed by central politics.

### **Local Peace Committees**

The CPA did not explicitly focus on local governance, but it did identify priority areas for social, economic and political transformation. After the war, the government established the Ministry of Peace and Reconstruction (MoPR) with a

mandate to manage the peace process, including setting up peace mechanisms at both national and local levels. To support the MoPR, the government and donors established the Nepal Peace Trust Fund (NPTF) in January 2008. Among others, one of the functions of the NPTF was to promote and consolidate peacebuilding initiatives and processes through the formation of Local Peace Committees (LPCs). Accordingly, in 2010, the MoPR formulated the Local Peace Committee Directive [see *article on Nepal's peace architecture, p.24*].

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LPCs exist at district, municipality and VDC level across the country with fairly well-defined terms of reference for each. Broadly, the responsibilities for each tier of LPCs relates to the following: assisting in implementing the CPA and promoting the peace process; monitoring implementation of the MoPR's Relief and Reconstruction Programme; supporting data collection on conflict victims; promoting local peacebuilding initiatives, especially through reconciliation, healing and trust-building; monitoring local political and social developments; and disseminating information on issues affecting local peace processes.

The experience of LPCs suggests that they have in general not been able to fully accomplish their mandates. Rather, their roles have been limited mainly to the distribution of relief funds and conducting a small number of awareness-raising initiatives, which together represent less than half of their overall responsibilities. There are examples of LPCs operating effectively in some conflict-affected districts: to mediate local conflicts; to establish good working relations with local administrations, civil society actors, marginalised groups and other stakeholders; to support local peacebuilding initiatives; and, lately, to collect complaints for submission to the Truth and Reconciliation Commission and the Commission of Investigation on Enforced Disappeared Persons. But the general consensus is that they have largely failed to carry out their responsibilities.

A few key factors have restricted the effectiveness of LPCs. First, LPC members are only partially aware of their role, with most tending to believe it is limited to reviewing and verifying applications from conflict victims for interim relief, rather than actively supporting conflict resolution. Second, political parties are generally over-represented

in LPCs, while women, civil society, indigenous groups, and direct victims of the conflict are under-represented, despite being provided formal roles and responsibilities. Such forms of elite capture by political parties have raised doubts about the possibility of LPCs providing useful spaces for marginalised groups to raise concerns.

There have also been reports of discrimination and exclusion in providing services to conflict victims. Some of these irregularities have to do with the flawed political system in Nepal in general, and especially the initial registration of 'conflict-affected people'. Political parties led this process, and individuals with political connections were able to register as conflict-affected even in obviously dubious cases, while genuine victims who were less familiar with administrative procedures were unable to register. But LPCs have largely been incapable of rectifying such errors.

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The LPCs in general are also constrained by a lack of resources, thus affecting their ability to plan for and implement activities as per their mandate. Simultaneously, there have been reports of LPCs planning for activities that are beyond their roles and responsibilities. But the main reason behind LPCs' limited success rests on the failure of the political process in which, due to constant political struggles and bickering among major political parties, the provisions of the CPA have been implemented selectively, as LPCs, like local governance more broadly, have been sidelined in favour of the national-level interests of the political leadership.

## Conclusion

Local governance has not received the priority it deserves in Nepal's peace process and wider political transformation – especially in comparison to federal state restructuring, drafting a new constitution, the form of governance and electoral system, and reintegrating Maoist combatants. The post-conflict period has seen successive governments experiment with other transitional mechanisms such as LPCs. But where similar structures have had varying degrees of success in other conflict-affected societies, the record in Nepal has been mixed at best.

Besides strengthening links between communities and the state, local governance must also provide more effective service delivery, transparency and accountability, all of which are vital for long-lasting peace and stability. The absence of elections for local bodies has become all the more evident given that the already fragile peace process is being further strained by ongoing political competition at the national level.

Interim measures – APMs, LPCs – have failed to engage political power and therefore have lacked traction, and have also succumbed to recurring patterns of clientalism and partisanship. These challenges for local governance are likely not only to continue to stall the peace process, but also to weaken the very foundations of state legitimacy and capacity in Nepal that could underpin a viable way forward for peaceful change.

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