



State of the World's Minorities and Indigenous Peoples 2016 - Nepal

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Events of 2015

Tragedy struck Nepal in late April when a 7.8 magnitude earthquake ripped through the country, claiming the lives of over 8,000 people. A second tremor struck the following month, razing entire villages mostly in the country's north. The disasters exposed the deep-seated discrimination faced by minorities and indigenous peoples in the landlocked Himalayan nation. It also pushed the government to adopt a controversial new Constitution, sparking months of political friction and a deadly humanitarian blockade.

The Nepali government quickly came under fire for excluding lower-caste and indigenous communities, including women, from vital post-earthquake relief. According to a report by the IDSN, some 60 per cent of Dalits felt there had been intentional negligence in the provision of rescue and humanitarian assistance in the wake of the tragedy due to caste-based discrimination. The study found that a majority of affected Dalits remained homeless over a month after the disaster, when nearly 80 per cent of higher-caste communities had received tents or tarpaulins. It also concluded that non-Dalits had been prioritized for rescue efforts in the crucial days following the earthquake. One Dalit woman was verbally and physically assaulted while standing in line for humanitarian relief, leaving her with a fractured shoulder. A report by Amnesty International confirmed these findings, accusing the government of systematically failing lower castes, women and female-headed households, disabled people and marginalized ethnic groups.

The earthquake has aggravated existing discrimination faced by Dalits, who are considered among the most marginalized in Nepal and constitute some 14 per cent of the population. Dalits tend to live in remote, disaster-prone areas, where they often perform dangerous and low-skilled jobs. Nearly half of all Dalits live below the poverty line, compared to one-quarter of the general population. Lower-caste women, in particular, have struggled to access post-earthquake aid, largely due to a lack of government information and difficulty reaching food distribution centres, according to the Feminist Dalit Organization (FEDO). FEDO is pushing to boost representation for Dalits on Nepal's district disaster risk reduction committees, which allocate support to survivors.

Nepal has struggled to approve a new Constitution since the end of its decade-long civil war and Maoist insurgency in 2006. The first Constituent Assembly – established to approve the new Constitution – failed to reach consensus during a time of growing ethnic and religious fissures. No one ethnic group in Nepal constitutes a numerical majority, although the Brahmin and Chhetri hill communities hold political control. One of the key points of controversy surrounding the Constitution

has been the nature of federalism and political representation of minorities. Spurred by April's disaster, the parliament rushed to approve a new Constitution in September 2015, with 507 out of 601 members of the Constituent Assembly voting in favour. However, the process was engulfed by controversy, with Nepal's Madhesi and Tharu minorities staging violent protests against the draft legislation, which they believe marginalizes their rights. Many minorities and indigenous communities want a federal structure divided along ethnic lines, while the new Constitution splits the country into seven geographically demarcated provinces. Critics said that minorities and indigenous peoples from Nepal's Terai plains, who make up over half of the population, were under-represented in the country's new 165-member parliament, initially allocated a mere 65 seats. By contrast, Nepal's mountain and hill people – dominated by higher-caste Hindus – are allotted 100 seats in the new parliament, thus favouring the established ruling elite. Madhesi and Tharus, who constitute most of the Terai population, say they were sidelined during the constitutional drafting process due to distrust towards them among the mainstream political parties.

As a result, Madhesi staged a blockade along key trade routes with India, preventing essential goods such as food, fuel and medicine from reaching the country, causing prices to soar. The crisis escalated when India refused to let further vehicles enter in what Nepal claimed was a display of support for the Madhesi, who share cultural and linguistic ties with people in Uttar Pradesh and Bihar states. By the end of the year, the World Food Programme was warning of an impending humanitarian catastrophe unless a political resolution could be reached. Dalits and remote indigenous communities struggling to recover from the earthquake were severely affected by the blockade. For example, Dalit labourers found themselves unemployed as construction sites were closed down. In January 2016 the government agreed to a number of amendments that would grant the Madhesi and Tharus greater political representation. However, disputing parties failed to reach agreement on boundary delineation and the protests only came to an end when fatigued Madhesi traders tore down the border blockade the following month.

The Constitution has also attracted criticism for some of its other provisions. For example, Nepali women are still unable to pass on their citizenship to their children unless the father is also a citizen. Children born to Nepali mothers and foreign fathers are barred from holding a high political office as they can only obtain 'naturalized citizenship'. This appears to be rooted in patriarchal notions of Hindu-based nationalism, which perceives women – especially from the marginalized Madhesi minority inhabiting the plains near the Indian border – as potential threats to national security. The provision has come under fire from women's and human rights activists, but male politicians have defended it as necessary to prevent men from neighbouring countries marrying Nepali women and creating undesirable population growth. As such, Nepali women have effectively been branded second-class citizens. Among the most severely affected are Madhesi women in the southern Terai region, where marriages across the Indian border are common. Lower-caste and socially marginalized minorities are likely to be hit the hardest, potentially fuelling statelessness in southern Nepal.

Hindu nationalists also called during the year for Nepal to formally adopt the majority faith as its state religion. In the end, Nepal's parliament ruled that the Constitution should remain secular, reflecting the diversity of the country's religious groups, including sizeable Buddhist, Christian, Kirat and Muslim minorities. The decision sparked violent protests in the capital Kathmandu, where nationalists torched vehicles and looted churches. But in fact Nepal's Constitution continues to favour the Hindu faith by defining secularism as 'religious and cultural freedom including protection of religion and culture prevalent since ancient time'. Another clause imposes criminal penalties for those who convert Nepalis to another faith, clearly intended as an effort to protect Hinduism. It poses serious problems for freedom of religion and conversions in Nepal, raising the possibility of selective enforcement.

The Constitution also retains the cow as the national symbol of Nepal, fusing the country's cultural identity with Hinduism, officially practised by some 80 per cent of the population (although this number is disputed by minority activists). Nepal already imposes a 12-year jail sentences for cattle-slaughter, impinging on the cultural rights of the country's indigenous peoples. According to the

Lawyers' Association for Human Rights of Nepalese Indigenous Peoples and National Coalition Against Racial Discrimination, this policy 'historically has been used to carry out the State's forced cultural assimilation of indigenous peoples and to forge a homogenous identity for Nepali citizens'.

Nepal's indigenous peoples faced continued encroachments of their land and cultural rights at the hands of the high-caste Hindu elite based in Kathmandu during 2015. For example, ancestral land belonging to the indigenous Newar people of the Kathmandu Valley was unlawfully snatched by the authorities and is now being developed into a large business complex in the tourist district of Thamel. As a result, they have lost access to a pond considered holy from which they used to bring water and lotus flowers for worship at a nearby monastery as part of a daily ritual. A nearby stone used for death rites was also lost. It reflects how the country's 'top-down' approach to development, driven by the ruling elite, has served to further marginalize and entrench discrimination against Nepal's indigenous peoples.

Newari traditions have had an enormous impact on the country's cultural heritage, especially in the Kathmandu Valley, where the community comprises a sizeable part of the population. Practising a mixture of Hinduism, Buddhism and ancestor-worship, the Newaris have built the vast majority of Kathmandu's famed cultural and religious sites, which draw thousands of visitors each year. For example, the UNESCO-listed Durbar Square and Swayambhunath complex are based on Newari architectural and cultural traditions. Durbar Square was severely damaged in the 2015 earthquake, which flattened numerous historic *stupas* and temples. Newari heritage suffered similar damage in a 1934 earthquake, resulting in some structures being rebuilt without due consideration for their original architectural style. Nevertheless, the durability of the Newari architectural style has also been credited with protecting some key temples – such as the Kumari Ghar or home for a child 'living goddess' – from damage in April's earthquake, while other nearby temples mimicking the design but not the traditional techniques crumbled. It is therefore imperative that Nepal's post-earthquake reconstruction process is inclusive and sensitive to cultural traditions.

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