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Abstract

How does the reform of state institutions shape prospects for peace after war? Existing research on the institutional causes of peace focuses on how institutional designs, as the *outcomes* of reform processes, reduce post-conflict violence and promote peace. The literature does not, however, adequately address how the *politics* that characterise reform processes affect the legitimacy of institutions and whether or not violent protest against these institutions ultimately takes place. This focus risks omitting key explanations of how institutional reforms contribute to peace and the mechanisms by which this occurs. By examining the case of Nepal, where clashes between protesters and security forces killed almost 60 people between August 2015 and January 2016, this study shows that emotional rhetoric, elite control of decision-making, backtracking on previous commitments, the acceleration of reform processes, and the embedding of single reforms in a "concert" of reforms that, as a whole, sparks fears of discrimination are all factors that can lead to post-conflict violence.

Keywords: peace, post-conflict societies, institutional reform, Nepal

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The Politics of Institutional Reform and Post-Conflict Violence in Nepal

Julia Strasheim

Article Outline

1 Introduction

How does the reform of state institutions shape prospects for peace after armed conflict? This question has been central to the academic literature on post-conflict peace processes and of great interest to practitioners promoting peace in war-torn states. For instance, in 2012 the Organisation for Economic Cooperation and Development (OECD) allocated more than USD 17 billion in development assistance to support governance and peace in developing countries – the highest amount of aid provided to *any* sector that year (OECD 2014). Nevertheless, research analysing institutional reform processes has to date suffered from an insufficient conceptual approach to the relationship between such reforms and peace. Most notably, the

scholarship focuses on how institutional designs, as the *outcomes* of reform processes, reduce post-conflict violence and help promote peace. This means that the debate is dominated by studies analysing how, for instance, federalist state structures (Hartzell et al. 2001), electoral system designs (Boogards 2013), or power-sharing deals (Hartzell and Hoddie 2003) promote peace after war. The literature therefore does not adequately address how the *politics* characterising reform processes affect the legitimacy of institutional outcomes and, ultimately, whether or not violent protest against these institutions takes place.

This paper complements the literature and analyses how rather than institutional designs alone, emotional rhetoric, backtracking on previous commitments, the dominance of elite political actors in decision-making, the acceleration of reform processes, and the embedding of single reforms into a "concert" of institutional reforms (Kurtenbach and Mehler 2013) which, as a whole, sparks fears of discrimination are factors that can exacerbate tensions and spark violence. To this end, the paper takes on the case of Nepal. Nepal's peace process is often regarded as a relative success, as the Communist Party of Nepal (Maoist), or CPN (M), successfully demobilised and transformed into a political party (Ishiyama and Batta 2011). Recently, however, politics in Nepal have taken a violent turn. On 20 September 2015, a protracted constitution-making process ended when 507 of 598 Constituent Assembly members approved a new constitution. The document is meant to consolidate Nepal's transformation from a centralised Hindu kingdom at war to a federal and secular republic at peace. Some observers thus enthusiastically referred to it as the "end of the peace process" with the CPN (M).[1] But weeks before the constitution was promulgated, protests erupted in Nepal's southern Tarai plains. This region is home to various identity groups, including Janajatis (an umbrella term for indigenous groups, including the Tharus from the western Tarai) and Madhesis (an umbrella term for Muslims and caste-based Hindus, who make up approximately 30 per cent of Nepal's total population, cf. Dastider 2013). These groups have long exhibited considerable anger against the political elites in Kathmandu for the latter's failure to alleviate the widespread political, legal, and economic discrimination against minorities (cf. Gellner 2007), and they hold that the institutional reforms foreseen in the new constitution will result in the further marginalisation of Tarai communities. Madhesi activists in particular thus staged several protests against the proposed reforms and erected a blockade of the Nepal–India border. By January 2016, almost 60 people had died in clashes between security forces and activists. As the government mobilised the army for the first time since the end of the war, observers feared that the events were only the beginning of an ethnic war in the Tarai (International Crisis Group 2016).

To what extent did the politics of Nepal's institutional reform process contribute to the violent escalation of grievances in the Tarai? By analysing this question, the paper makes important contributions to the research on the institutional causes of peace, as well as to the

1 Author interview with an employee of a development cooperation agency, Lalitpur, 23 September 2015.

study of politics in Nepal. With its conceptual focus on the politics, rather than the outcomes, of reform processes, my analysis adds to the theory-building in the research on institutional reform and post-conflict peace. With a focus on Nepal's peace process, the paper also empirically advances a debate that has been dominated by statistical research and case studies on reform processes in Africa. Furthermore, the paper contributes to the research on Nepalese politics, as past analyses have tended to focus on the socio-economic, rather than institutional, determinants of violence or peace in Nepal (e.g. Hatlebakk 2009; Murshed and Gates 2005). In this regard, I present novel empirical data on post-conflict politics in Nepal, as my analysis is informed by field work carried out in the Kathmandu Valley between September and October 2015 and thus in the immediate aftermath of the promulgation of the constitution. In sum, I conducted 30 interviews with party or government representatives, former Maoist combatants and commanders, civil society leaders, journalists, and members of the international community. I also draw on existing scholarship and several primary sources in my analysis, including newspaper articles and social media postings by Madhesi activists.

The paper is divided into four sections. In Section 2, I discuss existing research on the relationship between institutional reforms and post-conflict peace. This serves to develop an argument for why it is theoretically and empirically rewarding to shift the analytical focus from the outcome to the politics of institutional reform processes. In the subsequent section I briefly outline Nepal's conflict and post-conflict periods in order to introduce the relevant political actors and to describe the patterns of violence that erupted following the signing of the Comprehensive Peace Agreement in 2006. Section 4 provides a critical assessment of how the politics of institutional reform increased minority group grievances and added to the violent escalation of such grievances from mid-2015 onwards. In my concluding remarks, I suggest avenues for future research.

2 Institutional Reform in Post-Conflict Societies

A growing number of studies today regard the reform of state institutions in the aftermath of armed conflict as being of paramount importance for promoting sustainable peace and democracy (Ansorg and Kurtenbach 2017; Paris and Sisk 2009; Wolff 2011). If conflict occurs because identity groups violently rebel to address their political or economic exclusion, then reforming state institutions so that post-conflict politics are more inclusive or democratic should have a pacifying effect. Reforms to promote non-violent, institutional conflict management can thus include the redesign of territorial state structures (Brancati 2006), the reform of electoral or party systems (Boogards 2013; Reilly 2006), or the engineering of institutions in the state security sector (Bryden and Hänggi 2004). The literature on such reforms has in recent years particularly accentuated three aspects of reform processes.

Firstly, the debate has highlighted the *dilemmas* encountered by actors promoting institutional reforms in war-to-peace and war-to-democracy transitions, meaning how reforms that

aim to support post-conflict peace are not necessarily the best choice for furthering democracy at the same time (Jarstad and Sisk 2008). This discussion links to the broader research within the political science literature on the conflicting relationships between democracy, democratisation, institutional inconsistency, and peace (Mansfield and Snyder 1995; Vreeland 2008). In particular, studies have pointed out that while power-sharing institutions are meaningful drivers of peace after war as they reduce the warring parties' uncertainties over political survival (Mattes and Savun 2009), power-sharing deals can be profoundly undemocratic (but see Hartzell and Hoddie 2015). This is because institutional guarantees for inclusion in decision-making contradict the uncertain, competitive nature of democracies (Roeder and Rothchild 2005) and entrench existing identity group cleavages (Schneckener 2002).

Secondly, the debate has overwhelmingly focused on explaining how specific institutional arrangements foster peace. This has notably concerned the aforementioned effects of political, military, territorial, or economic *power-sharing* institutions (Hartzell and Hoddie 2003). Empirically, this relationship has predominantly been assessed in statistical analyses and has focused almost exclusively on how power-sharing reduces the risk of recurring armed conflict, rather than on how institutions of joint rule curb other types of post-conflict violence (Cammett and Malesky 2012; Mattes and Savun 2009). While these studies report ambiguous findings on the pacifying effects of political power-sharing (cf. Binningsbø 2013), there is more profound correlative empirical evidence for the peace-conduciveness of territorial and military power-sharing (Jarstad and Nilsson 2008). The statistical debate is complemented by a substantial body of case studies on power-sharing, primarily on Africa, that are substantively more critical of how joint rule reduces the risk of violence (Cheeseman and Tendi 2010; Lemarchand 2007; Simons et al. 2013). Tull and Mehler (2005), for instance, hold that power-sharing promotes renewed war as it rewards the use of violence with a seat in office. The pacifying effect of power-sharing is further questioned by integrationist approaches to institutional reform that suggest designing institutions so that they do not build on, but rather reduce the salience of identity group cleavages (cf. Horowitz 1993; Reilly 2001).

Thirdly, the academic debate also tends to focus on studying reform processes supported by the *international community* (Jung 2012; Peou 2007; Zürcher et al. 2013). Empirically, this discussion has again been primarily driven by case studies on African peace processes – such as Liberia (e.g. Bøås and Stig 2010) – but has also included studies of institutional reforms in south-eastern Europe (Bernabéu 2007; Narten 2008). Afghanistan and Iraq are further prominent cases for (the limits of) internationally driven reforms (Reynolds 2006; Waldner 2009). A key focus of these studies is their critique of how exporting Western ideas of institutional designs to the developing world and imagining the Westphalian state as an end product of this process is unfit for promoting peace or democracy after war. This is not least because following blueprints and best practice guidelines fails to more clearly take into account the underlying context conditions (Ansorg and Kurtenbach 2017).

Situated within this literature, this paper suggests a different approach to studying post-conflict institutional reform. Firstly, it argues that by concentrating on institutional designs as causes of peace, the debate uses a limited conceptual understanding of how reform processes promote or impede peace after war. This is because such a focus – likely driven by the dominance of statistical analyses in the debate and the availability of quantitative indicators to measure institutional designs – overlooks other factors of a reform process that affect its legitimacy and thus also violent protest. In the worst case, an analytical focus only on institutional designs as the "end product" of reform processes risks omitting key variables or mechanisms that help illuminate how institutional reforms reduce post-conflict violence and contribute to peace. Secondly, the paper holds that by concentrating on reforms driven by international actors, the literature risks overlooking the domestic power politics at play when third parties are absent.

In the following assessment of how institutional reforms contributed to the recent violent escalation of minority protests in Nepal, I therefore focus on two aspects of the domestic politics of institutional reform: *actors* and *modalities*. Firstly, and borrowing from scholarship on civil society engagement in peace negotiations and peacebuilding, it is reasonable to expect that the legitimacy of post-conflict institutions depends on the *political and social actors* granted decision-making authority in reform processes (Nilsson 2012; Paffenholz 2010; Zanker 2014). This means that more inclusive institutional reform processes that not only protect the interests of elite political players in the post-conflict state – such as those of warring-party representatives – but also more broadly integrate the voices and concerns of other parts of society result in more broadly legitimated institutions and thus also lower the risk of violence motivated by grievances over institutional designs. This seems like a straightforward approach to how reforms shape prospects for peace, but Svensson (2014) has pointed out that the debate has given scant attention to actors other than the warring parties or their international custodians. Beyond civil society groups, these particularly include non-militant political parties without a history of armed insurgency (cf. Brosché and Höglund 2016).

Secondly, *modalities* point to the manner in which political and social actors implement and communicate their decisions on institutional reform. Past research in this regard has particularly suggested that the way political elites embed single institutional reforms in broader reform processes shapes the legitimacy of institutional outcomes. For instance, institutional reforms embedded in reform processes that as a whole alleviate rather than increase any fears of marginalisation should curb violence in the post-conflict period. Kurtenbach and Mehler (2013: 2) refer to this joint effect as the "concert of institutions" and argue that institutions and their reform do not exist in a vacuum, but interact with and are conditioned by the underlying context conditions of post-conflict societies as well as by the numerous other reforms taking place (cf. Basedau 2017). An example of this interaction is the link between power-sharing institutions and disarmament, demobilisation, and reintegration (DDR) processes. While being subjected to DDR may raise fears of vulnerability for warring parties, this

is alleviated by offering party representatives positions in power-sharing institutions. In Liberia, for instance, party representatives "blocked disarmament until they received more government jobs" (Papagianni 2008: 46). The debate on post-conflict institutional reform has so far granted little attention to such interactions (Ansorg et al. 2013).

3 Armed Conflict and Post-Conflict Violence in Nepal

The Nepalese state and its institutions have long exhibited profound discrimination against minority groups. Between 1846 and 1951, the rule of hereditary prime ministers within the Rana family created a deeply unequal political system that systematically benefited high-caste, Nepali-speaking Hindu men from the country's central hill region, while Madhesis even had to obtain written permission to enter Kathmandu (Hachhethu 2007). The authoritarian *panchayat* system further enshrined such discrimination between 1960 and 1990. The *panchayat* constitution preserved Nepali as the sole official language while declaring Nepal a Hindu kingdom and the king a reincarnation of Vishnu (Sijapati 2013; Thapa 2012). In 1990, the First People's Movement or *Jana Andolan I* helped bring about a transition to democracy, but high-caste men from the hills remained dominant within the political system, and in their control over political party structures (Lawoti 2010; Riaz and Basu 2007).

Between 1996 and 2006, a Maoist insurgency capitalised on minority grievances. While the CPN (M) rebel group concentrated its mobilisation activities on the midwestern hill districts until the late 1990s, it began to appeal to the Tarai minorities more prominently from 2000 onwards (Kantha 2011). The rebels attracted Madhesis and Tharus into their ranks not only because of their fight to end discrimination and give all languages equal status, but also by promising to create autonomous Tharuwan and Madhesh provinces in a future federal state. In 2005, a royal coup restored all power to the king, an event which united the Maoists, the parties, and civil society in protests against the palace (Whelpton 2013). This *Jana Andolan II* also paved the way for a peace deal between the CPN (M) and the parties in 2006. In 2008, the Maoists won the first elections of the post-conflict period, and the elected Constituent Assembly (CA) moved on to immediately abolish the monarchy and declare Nepal a republic.

Although the CPN (M) gave up its arms, post-conflict peace has remained fragile and Nepal has witnessed several eruptions of organised political violence over the past decade. In 2007, as it became apparent that the interim constitution negotiated by the signatories to the peace accord would not address Madhesi demands for an autonomous Madhesh, clashes erupted between Maoist cadres and activists of the Madhesi People's Rights Forum (MPRF), a former civil society movement that was turned into a political party in the early days of the peace process. This *Madhesi Andolan* killed over 30 people and was followed by a series of negotiations that culminated in the Eight-Point Agreement of 28 February 2008 (Sijapati 2013). In this deal, the government (under then prime minister G.P. Koirala) accepted the call for an autonomous Madhesh, as well as other minority demands (Kantha 2011).

But in the following years, Nepal's political elite failed to uphold its promise to the Tarai groups as well as to compromise on constitutional provisions for federalism (Sanchez Palacio 2015). The CPN (M) remained the only major party at least rhetorically committed to the identity-based federalist structure demanded by the Tarai groups. The Nepali Congress (NC) and the Communist Party of Nepal (United Marxist Leninist), or CPN (UML), leaders conversely held that such a system would create "ethnic ghettoes" (International Crisis Group 2016: 11) and lead to the "breakup" of the country.[2] The parties' inability to settle on a text for the new constitution resulted in the dissolution of the first CA and elections for a second CA in 2013. The Maoists – now the Unified CPN (M), or UCPN (M), after their merger with a smaller party – lost a substantial share of votes, having failed to deliver on their promises to significant parts of the populace.[3] But the writing of the constitution was again deadlocked over the question of federalism, and only the "urgency to begin reconstruction" after the April and May 2015 earthquakes helped speed up this process (Sharma and Barry 2015). As reflected in the September 2015 constitution, the UCPN (M) entered into a compromise and accepted geography-based federalism as promoted by the NC and the CPN (UML). The constitution was endorsed by 537 of the 598 CA members. Of the 61 members who boycotted the vote, 58 belonged to Madhesi parties (INSEC 2015).

Madhesi and Tharu activists had already begun to mobilise resistance against the constitution in August 2015, arguing that its provisions for institutional reform increased rather than alleviated the state's systematic discrimination against them. By January 2016, almost 60 individuals had died in clashes between security forces and activists, leading observers to refer to the constitution as a "catalyst" for violence (Human Rights Watch 2015: 11). One observer, for instance, argued that the protests had escalated because the logic behind the proposed institutional reforms was to "[divide] and scatter the marginalized populations, render them a minority in each constituency, prevent them from consolidating their political power, and continue the same old game on a new playing field" (in Ghale 2015). In February of this year, Nepal's parliament approved a constitutional amendment that reacted to some of the demands, but activists viewed the changes as insufficient. Further unrest, or even ethnic war, is likely (International Crisis Group 2016).

4 The Politics of Institutional Reform in Nepal

Madhesis and Tharus have voiced grievances with regard to four constitutional provisions. Firstly, they believe that a system of geography-based federalism (as detailed in Article 56.3 of the constitution) will result in their further marginalisation – for instance, because the proposed delineation of federal units would mean they would not constitute a majority in

2 Author interview with an NC Central Committee member, Kathmandu, 19 October 2015.

3 Author interview with a civil society leader and election observer, Lalitpur, 9 October 2015.

any of the units (cf. Sanchez Palacio 2015). Secondly, they hold that the constitution (particularly Article 11) incorporates a citizenship law that hurts the rights of both women and Madhesis (see below). Thirdly, they argue that the constitution also introduces an electoral law, in Article 84.1a, that drops previous legislation on proportional representation (PR) and leaves Madhesis and Tharus under-represented in the national parliament.[4] Fourthly, they demand population-based electoral constituencies, instead of constituencies based on geography and population as also enshrined in Article 84.1a. While these demands all clearly relate to institutional designs and the *outcomes* of the constitution-making process, the violence that ensued as the result of minority grievances cannot be understood based on these outcomes alone.

4.1 Actors: Traditional Elites vs. Marginalised Communities

First and foremost, the violence in the Tarai is the result of the protestors' perception that the constitution-making process and the institutional reforms it proposed were squarely dominated by elite politicians in Kathmandu and meant to serve their interests, while Nepal's marginalised groups were not invited to take part in decision-making. This is a somewhat controversial claim, as Nepal's constitutional process has in the past often been hailed as "exemplary" (INSEC 2015) for including thorough discussions with civil society leaders as well as public consultations on constitutional provisions. Particularly in the period directly after the end of the war, when the civil society was perceived as a strong social player due to its role in the 2006 *Jana Andolan II*, civil society representatives were regularly invited by the political parties to voice opinions in constitutional committees.[5] The question, however, is how inclusive this process really was, as civil society organisations are dominated by high-caste, Nepali-speaking Hindu men from the central hill region – the same identity group that dominates the political scene (Shah 2008; Sijapati 2013). In 1999, for instance, Brahmins, Chhetris, and Newars held "90 per cent of top positions in prominent Nepali NGOs and human rights groups [and constituted] 80 per cent of the media elite" (Braithwaite 2015: 15). While some have argued that there "are so many cultures, ethnicities, and political ideologies in Nepal that any expectations of consensus in the constitution-making process are misguided and naïve" (Williams 2015: 251), for the marginalised groups in the Tarai, the inclusion of civil society did not, on its own, make for a participatory reform process. Similar concerns were voiced with regard to public consultations on constitutional provisions, to which Tarai citizens were at times denied entry on the premise that these meetings "were open only to party cadres" (International Crisis Group 2016: 13).

As a result, voices from the Tarai were grossly under-represented in decision-making on the institutional reform process, and this under-representation directly affected decisions to protest against the proposed reforms. As Ghale (2015) argues, not only did activists resent

4 This provision was amended in January 2016 to appease the protestors.

5 Author interview with a civil society leader, Kathmandu, 25 September 2015.

the actual federalist design as detailed in the constitution, they were also "equally critical of the manner in which the constitution was finalised" – namely, that a "narrow coterie of senior party leaders reached compromises on contentious issues behind closed doors." What particularly angered them was that the leaders of the four largest parties in parliament – NC, CPN (UML), UCPN (M), and MPRF – signed a 16-point agreement on 8 June 2015 to resolve any remaining contested constitutional issues. While a Madhesi party was thus a signatory, this did not increase the legitimacy of the agreement, since MPRF chairman Bijay Kumar Gachhadar was not perceived as an "advocate of the Madhesi cause" (International Crisis Group 2016: 7) and a representative of the broader Tarai population, but as an elite opportunist who had "betrayed" the Madhesis (The Voice of Madhesh 2015).

In Article 3 of the 16-point agreement, the political leaders vaguely agreed that a commission would finalise the demarcation of federal units following the promulgation of the constitution, but 10 days later Nepal's Supreme Court ruled that this demarcation would have to be undertaken by the CA. On 5 August 2015, the four major parties thus issued a map of the proposed federal state boundaries. This map was yet again drawn up "without formal consultation with Madhesi, Tharu, Janajati or Dalit groups," and it almost immediately sparked protest across the Tarai (International Crisis Group 2016: 9). As Shah (2015) argued on the popular digital platform *Madhesi Youth*, the "senseless violence […] can be attributed to a […] demarcation of federal states without consultation with all stakeholders. […] If the ruling political parties, NC and [CPN-] UML, are unwilling to listen to the legitimate demands, what options do Madhesis and Tharus [have]?" Observers argue that *any* reform proposal issued solely by political elites in Kathmandu could have sparked new protest (Strasheim and Bogati 2016). As one NC member stated: "We should not have decided constitutional matters without taking Madhesis into confidence. We could have passed almost any document if we had not alienated them" (in: International Crisis Group 2016: 7).

4.2 Modalities: Embedding, Rhetoric, Backtracking, and Acceleration

The link between the politics of institutional reform and the recent violence in Nepal includes several further notions apart from elite control of decision-making that are theoretically distinct from the concept of actors, though at times difficult to fully separate empirically. One of the key problems with the finalisation of the constitution was that the demarcation of federal provinces coincided with and was embedded in a number of simultaneous reforms – listed above – which, in "concert" (Kurtenbach and Mehler 2013), enhanced fear among the Tarai communities that they were being pushed even further to the margins. This notion links to the previous studies cited above and demonstrates that institutional reforms do not appear in a vacuum; they add up and impact, as a whole, the individuals' decisions to accept them or protest against them.

Notably, the reforms tackling Nepal's federal structure coincided with a revision of the citizenship law. Historically, citizenship in Nepal has been based on patrilineal kinship, and

the 1963 Citizenship Act only allowed fathers to transfer citizenship to their children, not mothers (Laczo 2003; Richardson et al. 2016). The 2006 Citizenship Act changed this provision to father *or* mother, which is the formulation adopted in Article 11.2b of the new constitution as well. Nevertheless, experts argue that this clause is overridden by other articles that discriminate against women, and Madhesi women in particular. For instance, Article 11.7 stipulates that children of a Nepalese father and a foreign mother are entitled to citizenship by *descent*, but children of a Nepalese mother and a foreign father can only obtain *naturalised* citizenship. This not only reveals an extremely patriarchal attitude towards citizenship but is also seen as highly discriminatory against Madhesis, who frequently inter-marry with families on the other side of the Nepal–India border (Democracy Resource Center Nepal 2015).[6] Protestors voiced concerns about how the proposed reforms added up to increase their discrimination, tweeting, for instance, "A constitution that shames me as a woman, a citizen, [and] a Madhesi […] is stained w[ith] the blood of my fellow citizens" (in Bhattarai 2015). The citizenship provision is seen as especially problematic and as a catalyst for violence because of its political implications: naturalised citizens "may not hold constitutional positions such as president, vice president, prime minister, speaker, chief minister of states, speaker of state parliaments, [or] chiefs of security agencies" (International Crisis Group 2016: 28).

Institutional reforms on federalism also overlapped with laws on the proportional representation of minorities in parliament, which added to the perception that Madhesis and Tharus would not only be in the minority in all federal units, but would additionally be underrepresented in the central government. This underscores the research arguing that institutional arrangements regarding the territorial restructuring of post-conflict states are most helpful when combined with measures that safeguard representation at the centre (Cederman et al. 2015; Wolff 2009).

In Nepal, post-conflict elections have been held under a mixed electoral system that combines proportional representation (PR) provisions with seats distributed through first-past-the-post (FPTP) mechanisms. The CPN (M) in particular pushed in 2007 to increase PR elements in the electoral law as it regarded such provisions as major gains for the marginalised groups, and also because it expected to do better under the PR system than under FPTP (Ogura 2008).[7] The ratio of PR to FPTP seats stipulated in the 2007 Interim Constitution was approximately 60 to 40, but this ratio was reversed in the September 2015 constitution to reflect the positions of the NC and the CPN (UML).[8] Furthermore, Article 84.2 requires quotas for "representation" (not "proportional representation") only in the preparation of electoral lists and not – as before – in the distribution of seats: "Marginalized groups fear that top political leaders […] will disregard the principle of inclusion when they select PR candidates from the lists" (Ghale 2015).

6 Author interview with an employee of a development cooperation agency, Lalitpur, 23 September 2015.

7 Author interview with a civil society leader and election observer, Lalitpur, 9 October 2015.

8 Author interview with an NC Central Committee member, Kathmandu, 12 October 2015.

While the provisions on the electoral system were amended in January 2016, these changes were again adopted by the largest political parties without consultation with Madhesi activists, meaning the reforms immediately lost all "the legitimacy they would have had as the outcome of a political negotiation" (International Crisis Group 2016, i). The amendment itself sparked further, but largely peaceful, protest, as it highlighted the vastly different perceptions in the Tarai and among the political elite in Kathmandu of what constitutes legitimate institutional design: While the constitutional amendment restores "proportional representation," it also stipulates that "economically backward" members of hill-origin upper-caste groups are eligible for PR quotas. In the Tarai, this is effectively perceived as rendering any provisions that combat inequality between historically advantaged and disadvantaged communities "irrelevant," and activists argue that the poverty of hill-origin high-caste citizens "is not linked to their membership of that community, and should [thus] be addressed under poverty alleviation measures aimed at the general population" rather than PR quotas (Amnesty International 2015: 5).

In addition to highlighting the select actors mandated with decision-making over institutional reforms and how these actors embedded single reforms in a wider process, the case of Nepal demonstrates how the modalities of the institutional reform process have contributed to the violent escalation of community grievances. Firstly, activists in the Tarai perceived the process as rushed, which heightened fears that the opinions of those other than the traditional elites would be disregarded (Watson 2016). After the largest parties signed the 16-point agreement in June 2015, they referred to what would follow as a "super-fast track" process (Thapa 2015), "to indicate that they adopted the shortest possible process to promulgate the constitution" (Democracy Resource Center Nepal 2015). While a partial explanation for this rushed decision-making was the stress that political elites were under following the earthquakes, Madhesis and Tharus who had not been invited to join the discussions felt "steamrollered" by the acceleration of reforms (International Crisis Group 2016: 7). The above-mentioned and already flawed public consultation mechanisms were also believed to have become irrelevant as they were shortened to last "a mere two days" (Ghale 2015). CA members equally argued that they "were not given enough time to read the draft" and that discussions of the draft were at times completely eliminated before a vote took place (International Crisis Group 2016: 17).

Secondly, both the traditional elites and the marginalised communities have resorted to emotional, populist, and racially charged rhetoric with regard to the reform process and in their reactions to reforms, adding to the violence in the Tarai (Human Rights Watch 2015).[9] In his post "Why the Madhesi people revolted in Nepal," Sha (2015) listed exclusionary language and attitudes among hill-origin political and media elites that regularly portray Madhesis as second-class citizens with questionable loyalties to India as one of the reasons for the pro-

9 Author interview with an international diplomat, Kathmandu, 22 September 2015.

tests in the Tarai. An example of the heated tone the debate took on both sides is provided by Neupane's (2016) "Letter to Madhesi Youth," in which she reflected on how Madhesis were seen as "traitors" in Kathmandu and asked protestors whether or not their violence would "make you more Nepali?" As a reaction, Gupta (2015) argued that Neupane's arguments demonstrated a "snap, immature judgment and align with racist voices in Kathmandu," reinforcing "the notion that Kathmandu is an insulated, unconcerned city, distasteful of ethnic uprisings." In sum, provocative language and labelling of "the other" has generally been perceived as leaving little room for debate with regard to further institutional reforms (International Crisis Group 2016: 32).

Finally, the protestors' anger has been stirred by elites' backtracking on past commitments with regard to institutional reforms, which has contributed to the profound lack of trust that Tarai minorities voice towards their political representatives at the centre. I noted above how the reversal of PR provisions in the reformed electoral system is regarded as a major political loss by the Tarai communities. In particular, however, the communities also feel abandoned and cheated by the Maoists. In particular, they perceive the Maoist party's recent break with the eight-point agreement of 2007 as a major betrayal, after having fought alongside the party during the war and having helped it get elected in 2008 (Ghale 2015). Since 2007, the "Maoist–Madhesi contest" (Kantha 2011: 157) has been a particularly salient issue in the peace process, and the Maoist shift in allegiance with regard to the institutional reform process has caused Madhesi perceptions of betrayal to resurface among both leaders and activists (Sharma 2016). As one Madhesi civil society leader reasoned, during "the process of constitution making, the Maoist party slowly […] left the agenda of the marginalised groups. [Thus,] […] the fault [for the protests in the Tarai] mostly lies with the Maoist party, not the government, the NC or CPN (UML). […] The Maoist leaders surrendered to the NC and CPN (UML)."[10] As Sha (2015) argued, the "Madhesis are in revolt again since over a month [because they are] demanding that the agreed principles and previous agreements signed with them be implemented […] The feeling of betrayal is strong among the Madhesis […] This led to unhappiness among them over the new constitution of Nepal, […] adding to their apprehension over the brute 'majoritarian' tendency shown by a few leaders."

5 Conclusion

This paper has investigated how the politics of institutional reform in Nepal related to the violent escalation of minority grievances in 2015, thereby transforming the country's new constitution from the "end of the peace process" into a "catalyst" for violence. I have emphasised the point that rather than disagreement about the designs of institutions alone, elite domination, emotional rhetoric, the acceleration of reforms, backtracking on previous com-

10 Author interview with the director of a Madhesi Human Rights NGO, Lalitpur, 28 September 2015.

mitments, and the embedding of single reforms into a wider process that as a whole sparks fears of discrimination are among the complex features of institutional reform processes that can contribute to post-conflict violence. In doing so, I have demonstrated that without adhering to this variety of features, an analysis of how institutional reforms are linked to peace risks omitting key explanations and mechanisms. As observers of Nepal's reform process have argued: without legitimate politics in the institutional reform process, *any* institutional design that is an outcome of such reform can generate the risk of new violence (International Crisis Group 2016; Strasheim and Bogati 2016).

The paper has demonstrated that academic research needs to strive for a deeper conceptual and empirical understanding of the politics of post-conflict institutional reform processes if its goal is to inform practitioners engaged in promoting peace after war. However, because this paper represents a single case study with inherent limitations concerning the generalisation of findings, my findings also call for future research on the topic. Above all, comparative or statistical studies on the politics of institutional reform are needed in order to tease out the features of institutional reform that account for violence across cultural contexts. Furthermore, I have only briefly touched upon the linkages between the features of reform processes, such as elite control and the acceleration of reforms. Important theoretical and empirical insights may be gained from a deeper analysis of such linkages.

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