

THE ROLE OF LOCAL WOMEN AS AGENTS OF PEACE IN THE ELECTORAL PROCESS DURING PEACEBUILDING AND RECONSTRUCTION SETTINGS: A NEPAL CASE STUDY



BY

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Dedication

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To Riccardo.

To the silence fuller than the words.

To the waves and the rocks that we lived together.

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Acronyms

ADB: Asian Development Bank

AU: African Union

CA: Constituent Assembly

CAEOUF: Constituent Assembly Election Observation United Forum

CEDAW: Convention on the Elimination of Discriminations Against Women

CPA: Comprehensive Peace Agreement

CPN-UML: Communist Party of Nepal Unified Marxist-Leninist

CSMR: Civil Society Monitoring Report in Nepal

DDR: Disarmament, Demobilization and Reintegration

DEAN: Democracy and Election Alliance Nepal

ECN: Electoral Commission of Nepal

EMB: Election Management Body

EU: European Union

FPTP: First-Pass-The-Post

GDP: Gross Domestic Product

GEOC: General Election Observation Committee

GII: Gender Inequality Index

GNI: Gross National Income

HDI: Human Development Index

IC: Interim Constitution

ICCPR: International Covenant on Civil and Political Rights

IDDs: Internal Displaced Persons

IDEA: Institute for Democracy and Electoral Assistance

IFES: International Foundation for Electoral Systems

LPC: Local Peace Committees

MA: Mine Action

NATO: North Atlantic Treaty Organization

NCP: Nepali Congress Party

NDI: National Democratic Institute

NEMA: Nepal Election Monitoring Alliance

NEOC-N: Nepal Election Observation Committee

NGOs: Non-Governmental Organizations

ODIHR: Office for the Democratic Institutions and Human Rights

OSCE: Organization for Security and Cooperation in Europe

PB: Peace-Building

PK: Peace-Keeping

PR: Proportional Representation

SG: Secretary General

SPA: Seven Party Alliance

SSR: Security Sector Reform

UDHR: Universal Declaration of Human Rights

UN: United Nations

UNDP: United Nations Development Report

UNIFEM: United Nations Development Fund for Women

UNMIN: United Nations Mission in Nepal

UNSC: United Nations Security Council

UNSCR: United Nations Security Council Resolution

VAW: Violence against women

VDC: Villages Development Committees

Abstract

Nepal is not only the country *at the foot of the mountains*, the majestic Himalayan mountain range, but represents an exemplary case of successful post-conflict transition to achieve gender equality inside its society. After a decade-long civil war, Nepalese society was ready to start reconstruction, with the *Comprehensive Peace Agreements* of 2006. Women ran a fundamental role in the process, from the Constitution-making phase to the electoral cycle. Free and fair elections contribute in a fundamental way to peacebuilding, lasting peace and reconstruction of the State. The role of the International Community was a key issue in supporting peace-keeping and peace-building activities. However, it is important to underline that only equal women participation in the processes can guarantee sustainable peace and development.

The 2007 Interim Constitution stated the mandatory representation of women in executive positions of political parties and 33% of candidacy for women in the election for the Constituent Assembly. The result was that the first Constituent Assembly (2008) obtained nearly 33% of female representatives: a great and unprecedented achievement that guaranteed women's concerns will be considered during the Constitution-making process.

Despite historic persistent obstacles, like discrimination due to patriarchal social structures, manifested in gender violence and a weak implementation of the national legislation and policy framework, women finally have reached a better level of political participation. Only in 2015, after a second Constituent Assembly (2013), the new Constitution was promulgated assuring quotas to women for parliamentary seats counting to 33%.

Today, Nepal has its first female President and its first female Speaker, representing a successful role model in Nepal political structures, as well as to other countries exiting from civil wars.

This study highlights the role that women play in the process.

Key words:

Electoral process, patriarchal society, gender-mainstreaming, gender discrimination, gender equality, peace-building, reconstruction, political participation, quotas.

Introduction

Elections represent one of the core elements of democracy. Through the vote, people's will is expressed in a peaceful way and must be considered by Government when planning and making national policies and laws. However, free and fair elections are not taken for granted, specifically in post-conflict countries exiting from violence and wars, therefore, with disrupted societies and no functioning State structures. Free and fair Electoral Process contributes in a fundamental and pacific way --during peace-building and reconstruction-- to rebuild the State. The international community intervenes in supporting this delicate and crucial phase with peace-keeping operations and peace-building programs. It has been demonstrated that during these two processes, gender dimension analysis and gender mainstreaming are crucial and they must be considered. Only equal women and men participation in these processes can guarantee sustainable peace and development. There is no other way.

Following these considerations, it was decided to focus this thesis on the role that local women as *agent of peace* play in electoral process during peace-building and reconstruction settings. The study pays attention to the Nepal Elections Process.

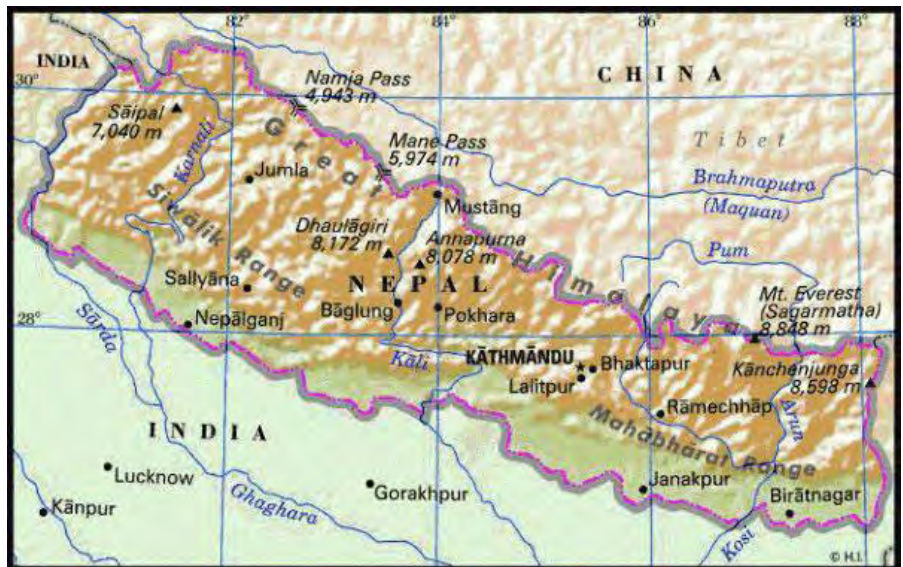
Why Nepal? Certainly, not only because per Sanskrit language is the country *at the foot of the mountains*, the majestic Himalayan mountain range, which moves the deep imagination of any human being...but also for its contradictions and extremes. The caste system and the patriarchal mentality are core elements of Nepalese society. However, a quite strong women movement has been developing through the last decades of the XX Century until today. Thanks to specific gender-sensitive provisions in the Interim Constitution and Electoral law, political participation of women has grown stronger. Today Nepal has its first female President in history, Ms. Bidhya Devi Bhandari, and its first female Speaker, Ms. Onsari Gharti Magar, representing a successful role model among post-conflict countries.

We consider this study as descriptive – exploratory case. The thesis is mainly based on documents and papers selected from the internet (validity of all websites links has been checked again during January 2017). The core of this study is about the Nepali Electoral Process from a gender perspective analysis. It aims to illustrate the main features of the process of 2008 Constituent Assembly. The main objective was to put in evidence the local best practices promoting women political participation, pointing out persistent obstacles and proposing recommendations.

Chapter I. Brief overview about Nepal

1. Origins

There are various theories regarding the origins of the word *Nepal*. In Sanskrit, it means *at the foot of the mountains*, while in the Tibetan language, means *holy land*. Alternatively, in Newari language, the name signifies *the tented house in which storing the yak wool*¹. Whatever the origin, contemporary Nepal cannot be understood without considering its ancient culture, grown in a unique location, nestled between the Tibet plateau, at the foot of the majestic Himalayan mountain range and the plains of India. Its history develops around the Kathmandu Valley, which has prospered for centuries as a resting place for traders



Map of Nepal. [www.nepalese.it]

and pilgrims. A melting pot of different cultures and religions, mainly Hinduism and Buddhism, Nepal has extended and contracted through the centuries, annexing tracts of India and contracting to the sole Kathmandu Valley and some city-states².

2. Geography

Geographically speaking, the country is formed by three East-West ecological belts. The first one, the Northern Range; mountain is characterized by the Himalayas mountain range with its eight peaks higher than 8,000 meters, including Mount Everest, known in Nepal as *Sagarmatha*. The second one, the Mid-Range; hill is famous for its rich and diversified nature: gorgeous mountains

¹ See at: <<http://www.tilicho.org/ita/Etimologia.asp>> [Last accessed 12nd January 2017].

² Ammann, Olga and Barletta, Giulia. *Nella terra degli dei, 1000 chilometri a piedi in Nepal*. (1986): Varese. La tipografia Varese. Pp. 37-44.

and peaks, valleys and lakes. The third belt, the Southern one, is called the Terai region, situated on the lower part of the country, *the grain house* of Nepal, where the capital Katmandu is located³.

3. Political evolution

a. Unification of Nepal under the Shahs

It is only in the 18th century that Nepal took shape as a modern State, when Gurka ruler Prithvi Narayan Shah laid the foundations for a unified kingdom by conquering Kathmandu (1768-1769). During this period, known as *the unification under the Shahs*, the Shah built an empire, only to end in conflicts with China, to which the new empire was finally obliged to pay tribute until 1912. The expanding Shah dynasty also clashed with the British empire causing the first Anglo-Nepalese war (1814-1816), after which the current Nepali boundaries were established⁴.

b. Ranocracy

Following its humiliating defeat, Nepal entered a long period of isolation, dominated by the hereditary Chief Ministers known as Ranas, who controlled the monarchy and cut the country off from the outside world. The Rana period brought about modernization in Kathmandu; however, the rest of the country continued to lead a medieval existence. In 1923, Britain formally recognized Nepal's independence. In 1930 the Kingdom of Nepal was proclaimed, reflecting a growing sense of national consciousness⁵. Lynn Bennet declares:⁶

“Especially during the Rana oligarchy, the Nepali caste system and the patriarchal gender system of the dominant group were reinforced by the State. It

³ Government of Nepal - National Planning Commission Secretariat – Central Bureau of Statistics. *Nepal in figures 2015*. (2015): Katmandu. Central Bureau of Statistics. Pg. 2. See at: <http://cbs.gov.np/image/data/2016/Nepal%20in%20Figures%202015.pdf> [Last accessed 15th January 2017].

⁴ See *Nepal Profile – Timeline* at: <http://www.bbc.com/news/world-south-asia-12499391> [Last accessed 15th January 2017].

⁵ See *Nepal Profile – Timeline* at: <http://www.bbc.com/news/world-south-asia-12499391> [Last accessed 15th January 2017] and Ammann, Olga and Barletta, Giulia. *Nella terra degli dei, 1000 chilometri a piedi in Nepal*. (1986): Varese. La tipografia Varese. Pp. 46-51.

⁶ Bennet, Lynn. *Unequal citizens. Gender, Caste and Ethnic Exclusion in Nepal*. Report of World Bank/ Department for International Development DFID. (2005): Katmandu. Pg. 6. See at: <http://siteresources.worldbank.org/EXTSOCIALDEV/Resources/3177394-1168615404141/NepalGSEASummaryReport-part1.pdf> [Last accessed 15th January 2017].

was an era of consolidation of power and entrenchment of social inequity that can occur in absence of competing world views”.

c. Restoration of the Shah and absolute monarchy: The Panchayat system

The Rana remained in power until 1951, when the absolute monarchy was restored because of an anti-Rana rebel coalition. This led to Nepal opening relations with other countries and the development of a new sense of democracy: the new constitution provided for a parliamentary system of government. In 1959 the country held its first general elections. The Nepali Congress Party (NCP) won, seeing Koirala becoming the Prime Minister. Despite these democratic steps forward, a few years later, King Mahendra seized control and suspended Parliament. He established the *Panchayat* (council) *system* (1962-1990), which meant that although the people may elect their representatives, the real power remained with the King, who selected almost half of the national Panchayat and appointed the Prime Minister. In addition, political parties were banned; strict censorship was enforced; mass arrests, torture and beatings of suspected activists took place. The impressive movements towards development (mainly education and road construction) were diminished by the relentless population growth. Indeed, Nepal's population increased from 8.4 million in 1954 to 26 million in 2004, transforming the country from an exporter to an importer of food. The caste-based discrimination was abolished in 1963⁷.

d. Multi-party democracy and political instability

In the mid '80s Nepali opposition parties formed a coalition to fight for a multiparty democracy with the King as constitutional head. The upsurge, called the People's Movement, culminated in 1990, when a large pro-democracy agitation headed by the Nepali Congress Party and leftist groups took place, resulting in the ban on political parties being lifted. The Constitution of 1990 defined Nepal as multi-ethnic, multi-lingual and democratic; where citizens are equal irrespective of

⁷ Bennet, Lynn. *Unequal citizens. Gender, Caste and Ethnic Exclusion in Nepal*. Report of World Bank/ Department for International Development DFID. (2005): Katmandu. Pg. 6. See at: <http://siteresources.worldbank.org/EXTSOCIALDEV/Resources/3177394-1168615404141/NepalGSEASummaryReport-part1.pdf> [Last accessed 15th January 2017].

religion, race, gender, caste, tribe or ideology: in other words, Nepal became a more inclusive State. “Nevertheless – states Bennet (2005) – *the Constitution declares Nepal a Hindu Kingdom, denying women the right to pass their citizenship to their children and explicitly protecting traditional practices. These have left room for the continuation of gender and caste-based discrimination*”⁸. A year later, the Nepali Congress Party won the first democratic elections and Mr. Koirala became Prime Minister. However, in the following years, the political atmosphere remained uneasy and unstable, with nine different governments in ten years. In 1996, the Maoists (of the Communist Party of Nepal), disgruntled by the corruption and failure of democracy to improve people's lives, declared a People's War. The civil war has been ongoing for the next 10 years⁹.

e. The Maoist revolt and the Peace Agreement

In 1996, the Maoists, frustrated by the corruption, declared a People's War, with the objective to abolish the Monarchy. The decade long civil war caused the loss of thousands of lives. Amnesty International accused both sides of tremendous human rights abuses. Finally, King Gyanendra, under international pressure and above all violent internal protests, lifted the state of emergency and reinstated the Parliament. The Comprehensive Peace Agreement (CPA) took place in 2006, which ended a decade-long insurgency and saw Maoists entering parliament and joining the interim government¹⁰.

f. End of Monarchy and the 2015 Constitution

As part of peace deal with Maoists, Parliament removed the King. The April 2008 elections (based on the interim Constitution of 2007) established a new Constituent Assembly, with the Maoists gaining the majority; a month later Parliament abolished the Monarchy by a margin of 560 votes to four. This historic event ended 240 years of royal rules and sees Nepal becoming a Republic.

By 2008, a new government was established, however, political instability remained strong and the

⁸ Ibid. Pg. 7.

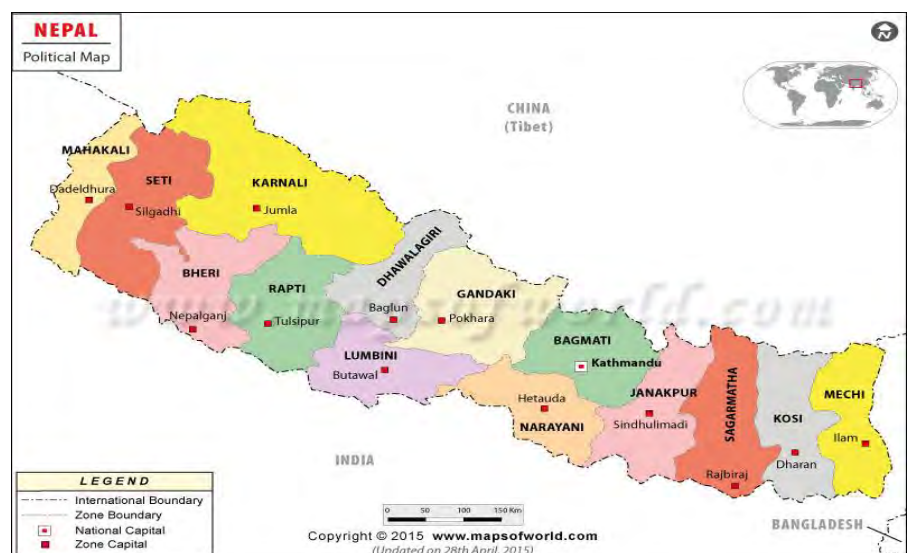
⁹ See *Nepal Profile – Timeline* at: <<http://www.bbc.com/news/world-south-asia-12499391>> [Last accessed 15th January 2017].

¹⁰ Ibid.

Constituent Assembly failed to draft a new Constitution. In 2013, the second elections were held to form a new Constituent Assembly: the left-wing Nepali Congress won, pushing Maoists into third place, but leaving no party with a real majority. Additionally, in 2015, a horrific earthquake hit Kathmandu and its surrounding areas, causing mass devastation with 8.000 deaths and leaving millions homeless. In September, the same year, Parliament passed the new Constitution, which defined Nepal as a Secular State. In October, Ms. Bidhya Devi Bhandari (Communist Party of Nepal Unified Marxist-Leninist; the CPN-UML) was elected as Nepal's first female President in a parliamentary vote. In August 2016, Mr. Pushpa Kamal Dahal (known as *Prachanda*: Nepali for the *fierce one*) became Prime Minister (representative of the Communist Party of Nepal)¹¹.

4. Nepal today

Despite of the democratic achievements, Nepal remains one of the world's poorest countries, with seven million Nepalis lacking adequate food or basic health and education. Nepal has one of the lowest health spending



Political map of Nepal [www.mapsofworld.com]

levels and the third-highest infant mortality rate in the world. Reports state that in Nepal every year, approximately 13,900 people are dying because of inadequate access to safe water supplies, poor environmental sanitation and personal hygiene practices¹².

The current Constitution (2015) established the Federal Democratic State of Nepal with seven

¹¹ See *Nepal Profile – Timeline* at: <<http://www.bbc.com/news/world-south-asia-12499391>> [Last accessed 15th January 2017].

¹² United Nations and Nepal's International Development Partners. *Nepal Peace and Development Strategy, 2010-2015*. (2010): New York. United Nations. Pp. 33-37. See at: <<http://un.org.np/sites/default/files/English%20Version.pdf>> [Last accessed 15th January 2017].

states, which are further divided into a total of 75 administrative districts, with 217 municipalities (including 1-metropolis, 12-sub metropolis) and 3,157 Villages Development Committees (VDC). The municipalities form the urban area of the country, while the Villages Development Committees are considered the *rural* part¹³.

a. Some data about Nepal

General Data

According to the national population census of 2011, the total population was 26.5 million with an annual growth of 1.35%. Government projections state a current population of approximately 28.1 million¹⁴. The female population represents 51.54 % of the total. Female life expectancy is 69.6, while the male one is 67.3¹⁵.

The 2010 Human Development Report has defined Nepal as one of the *fastest movers* thanks to its significant progress towards achieving the development goals. Efforts aiming at broad-based economic growth and poverty alleviation have permitted an important shift in the percentage of the population living below the poverty line: from 42% in 1996 to 25.4% in 2011. However, massive 2015 earthquake caused an estimated 700,000 people being pushed below the poverty line, with Gross Domestic Product (GDP) falling to 3% against earlier projections of 6%. Furthermore, inclusive growth is a long-term /geographic category¹⁶.

For 2014, Nepal had a Human Development Index (HDI)¹⁷ of 0.548, ranking 145 out of 188

¹³ Government of Nepal - National Planning Commission Secretariat – Central Bureau of Statistics. *Nepal in figures 2015*. (2015): Katmandu. Central Bureau of Statistics. Pg. 2. See at: <[http://cbs.gov.np/image/data/2016/Nepal in Figures 2015.pdf](http://cbs.gov.np/image/data/2016/Nepal_in_Figures_2015.pdf)> [Last accessed 15th January 2017].

¹⁴ Ibid. Pg. 3.

¹⁵ UN WOMEN- Office for the Coordination of Humanitarian Affairs OCHA. Inter-cluster Gender Working Group. *Nepal Gender Profile. Report March 2016*. Pg. 1. See at: <[http://reliefweb.int/sites/reliefweb.int/files/resources/nepal_gender_profile - updated 8th march 2016.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/nepal_gender_profile_-_updated_8th_march_2016.pdf)> [Last accessed 15th January 2017].

¹⁶ United Nations Development Program- UNDP. *Nepal Annual Report 2015*. 2016. See at: <http://www.np.undp.org/content/nepal/en/home/library/annual_report/undp-nepal-annual-report-20141.html> [Last accessed 15th January 2017].

¹⁷ The Human Development Index (HDI) is a summary measure for assessing long-term progress in three basic categories of human development: 1.a long and healthy life, which is measured by life expectancy; 2.access to knowledge, which is measured by mean years of education among the adult population and expected years of schooling for children; 3.standard of living is measured by Gross National Income per capita (GNI). United Nations Development Program-UNDP. *Human Development Report 2015: Work for Human Development. Briefing Note for Countries on the 2015 Human Development Report: Nepal*. 2015. Pg. 2. See at:

countries, placing the country in the Low Development Category. Between 1980 and 2014, Nepal's HDI has had an increase of 96.2% (annual 2%), testifying the improvements in different life conditions. Specifically, in the same period, Nepal's life expectancy at birth increased by 23.0 years (currently: 69.6); mean years of schooling by 2.7 and expected years of schooling by 7.6 years (currently, respectively: 3.3 and 12.4). Finally, Nepal's Gross National Income per capita (GNI) increased by around 140.5% (now: 2,311). However, it is very important to note that the Human Development Index falls to 0.401 if we consider the inequality rate in all the indexes: a loss of 26.8 % due to substantial uneven distribution of resources and opportunities¹⁸.

Gender perspective

Examining this from a gender perspective, it is possible to better illustrate one of the most important forms of discrimination present in Nepal today: discrimination against women. The Gender Inequality Index (GII)¹⁹ measures the human development costs of gender inequality, in other words, the higher the GII, the more disparities between females and males, and the greater loss to human development. Nepal has a GII of 0.489, ranking 108 out of 155 countries. Specifically, the maternal mortality rate is 190, meaning that for every 100,000 live births, 190 women die from pregnancy childbirth related complications; the adolescent birth rate is 73.7 births per 1,000 women aged 15-19. Regarding empowerment, women today retain 29.5% of parliamentary seats and 17.7% of adult women have reached at least a secondary level of education compared to 38.2 % of their male counterparts. Lastly, female participation in the labor market is 79.9% compared to the male participation of 87.1%²⁰.

As far as the education is concerned, in recent years the gender gap in educational attainment has

http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/NPL.pdf [Last accessed 15th January 2017].

¹⁸ United Nations Development Program-UNDP. *Human Development Report 2015. Work for Human Development. Briefing note for Countries on the 2015 Human Development Report. Nepal*. 2016. Pg. 3. See at: http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/NPL.pdf [Last accessed 15th January 2017].

¹⁹ The Gender Inequality Index (GII) reflects gender-based inequalities in the three dimensions of reproductive health, empowerment and economic activity. Reproductive health is measured by maternal mortality and adolescent birth rates; empowerment by the share of the parliamentary seats held by women and attainment in secondary and higher education by each gender. The economic activity is measured by the labour market participation rate for women and men. United Nations Development Program-UNDP. *Human Development Report 2015. Work for Human Development. Briefing note for Countries on the 2015 Human Development Report. Nepal*. 2016. Pg. 5. See at: http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/NPL.pdf [Last accessed 15th January 2017].

²⁰ Ibid. Pg. 7.

narrowed, but female literacy remains lower than that of males: in the 15-49 age group, over 40% of women versus 14% of men have never been to school. While the target set for 2015 concerning the ratio of girls to boys in primary school has been reached in 2013, the situation for high school and tertiary level education does not reflect gender equality: the national literacy rate for youths (15-24 years old) is 85.11% and 92.97% of male youths are literate. Specifically, there is an important gap between the literacy levels in urban and rural youths, especially among females in rural areas, 91.98% of males and 76.26% of females are literate, while in urban areas the rates grow to 96.30% and 91.05% respectively²¹.

International commitments

Even though Nepal is signatory to 23 Human Rights treaties and international instruments which support, among others, women's rights and equality, thus far, policies have not guaranteed a concrete translation of these provisions into reality. Indeed, women's participation is low at the highest levels of decision-making. In public life, for example, women are represented at around 16% within the civil service, 4,5% in the judiciary and 5,8% in Nepal police services²².

²¹ UN WOMEN- Office for the Coordination of Humanitarian Affairs OCHA. Inter-cluster Gender Working Group. *Nepal Gender Profile. Report March 2016*. 2016. Pg. 4. See at: http://reliefweb.int/sites/reliefweb.int/files/resources/nepal_gender_profile_-_updated_8th_march_2016.pdf [Last accessed 15th January 2017].

²² UN WOMEN- Office for the Coordination of Humanitarian Affairs OCHA. Inter-cluster Gender Working Group. *Nepal Gender Profile. Report March 2016*. 2016. Pg. 8. See at: http://reliefweb.int/sites/reliefweb.int/files/resources/nepal_gender_profile_-_updated_8th_march_2016.pdf [Last accessed 15th January 2017].

Chapter II. The role of women in electoral process during peace-building

1. *What peace-building is*

Peace-building (PB) is a broad term that refers to the activities which conduct a fundamental role in the achievement of a sustainable peace, in a continuum with peace-keeping, whose primary objective is to prevent the recurrence of armed conflicts. Specifically, peace-keeping (PK) operations are deployed by international organizations, as the United Nations (UN), North Atlantic Treaty Organization (NATO), European Union (EU), African Union (AU) and others²³.

While PK missions may help to stem violence and hostilities in the short and medium term, PB activities are put in place to prevent the recurrence of violence and hostilities. It must be included in the priorities of post-conflict settings. In this stage, it often counts on the support and economic assistance of the international community to rebuilt the country²⁴.

To achieve sustainable peace, it is necessary to approach the five priorities outlined in the 2009 report of the Secretary General (SG) on PB in the aftermath of an armed conflict²⁵:

- a. Safety and security, including justice, respect of the rule of law and human rights;
- b. Confidence in the political process, through emergence of legitimate political institutions and participatory processes, and post conflict elections;
- c. Access to basic services as water and education;
- d. A functioning public administration and finance; and
- e. Social and economic recovery and development.

²³ Langholtz, Harvey J. *Principles and Guidelines for UN Peacekeeping Operations*. (2010): Williamsburg. Peace Operations Training Institute. Pp. 28-32.

²⁴ Ibid. Pg. 32.

²⁵ UN Secretary General. *Women's participation in peace-building*. Report of the Secretary General A/63/881-S/2009/304. (2010): New York. United Nations Security Council. Pp. 5-8. See the full resolution at: <http://www.unwomen.org/en/docs/2010/9/women-in-peacebuilding-report-2010> [Last accessed 15th January 2017].

PB activities that can be implemented are the following²⁶:

- Disarmament, demobilization and reintegration (DDR) of combatants;
- Mine action (MA);
- Security sector reform (SSR);
- Protection and promotion of Human Rights;
- Support to the restoration and extension of State authority;
- Electoral assistance.

This study will be focused on Electoral Assistance.

2. Electoral Assistance

As Micheal Maley (2004) underlines in his report, elections represent a *key issue* in peace-building mechanism²⁷. Indeed, in post conflict situations, the transition to a new democratic form of politics depends on the Electoral Process, whose outcome will be fundamental in determining if a democratic political system of government will prevail or if conflict will get back. Because of this, Electoral Assistance in post-conflict societies is a fundamental support in organizing, monitoring and carrying out free and fair elections through the provision of security, technical advice, logistical support and other forms of specific assistance²⁸.

a. Key factors to achieve an adequate electoral process

As it has been stated above, a genuine election is a fundamental element in democracy. However, the equation *elections = democracy* is valid only if specific principles and procedures are respected. According to the European Union Guidelines, elections must follow the international standards expected by the global and regional instruments like the Universal Declaration of Human Rights

²⁶ Langholtz, Harvey J. *Principles and Guidelines for UN Peacekeeping Operations*. (2010): Williamsburg. Peace Operations Training Institute. Pp. 33.

²⁷ Maley, Micheal. *Enhancing Women's Participation in Electoral Processes in Post-Conflict Countries*. (2004): New York. Office of the Special Advisor on Gender Issues and Advancement of Women – OSAGI. Pg. 3. See at: <<http://www.un.org/womenwatch/osagi/meetings/2004/EGMelectoral/BP1-Maley.PDF>> [Last accessed 15th January 2017].

²⁸ Langholtz, Harvey J. *Principles and Guidelines for UN Peacekeeping Operations*. (2010): Williamsburg. Peace Operations Training Institute. Pp. 34.

(UDHR), the International Covenant on Civil and Political Rights (ICCPR) and other international covenants against different kind of discrimination. To guarantee an adequate electoral process, elections must be characterized by six factors²⁹:

- **Universal suffrage:** every human being has the right to vote and stand for election. For this purpose, it is fundamental that the electoral registers are reliable, meaning permanent, regularly updated and published. Furthermore, there should be an administrative or judicial procedure-subject to control, if needed allowing for the registration of the voter who was not registered. Finally, special attention should be addressed to the submissions of candidatures (list of signatures).
- **Equal suffrage:** each voter has in principle one vote and the power of the vote is equal, which means that seats must be evenly distributed between the constituencies (these principles must apply at least for the elections to lower houses of Parliament and regional and local elections). Moreover, State must adopt a neutral attitude and guarantee equality of opportunities for parties and candidates alike, specifically during the election campaign, the coverage by the Media and the public funding of parties and campaigns. Parties representing national minorities are permitted and males and females are equally represented.
- **Free suffrage:** refers to freedom of voters to formulate a *personal opinion*, possible only if there is a respect of fundamental human rights, in particular, freedom of expression and press, freedom of movement inside the country, freedom of assembly and association for political purposes, including the possibility to constitute parties. Furthermore, State authorities have the obligations of submit all the received candidatures, enable the voters to know the list and the candidates, make all the information available also in the languages of minorities, guaranteeing an adequate voter and civic education. Elections must be free from fraud (otherwise, it should be punished)

²⁹ European Commission. *Handbook for European Union Election Observation*. (2008): Bruxelles. Elanders Sverige AB. Pp. 14-19.

and, possibly, violence and intimidation, and all the procedures, especially counting, must be transparent.

- **Secret suffrage:** secret ballot is not only a right, but also a duty and its violation should be sanctioned.
- **Direct suffrage:** people must have the possibility of choosing their representatives, in other words, of electing them directly, specifically: chamber of the National Parliament (at least one), subnational legislative bodies and local councils.
- **Periodic elections,** meaning they must be held at regular intervals (not exceeding 5 years).

b. Basic principles³⁰

Aside the respect for fundamental human rights cited above, the previous principles can be implemented only if there is a clear and stable Electoral Law (at least ranked as *Statute*), with specific procedural guarantees:

- The Electoral Commission should be independent, impartial, set up at all levels (from national to local polling station) and permanent in nature, with adequate resources.
- Furthermore, both national and international observers should participate in observing the fairness of the electoral procedures, not only during the election day itself, but also during the registration period of candidates and electors, including the electoral campaign.
- Observers must report irregularities, especially during the vote counting phase.
- At last, but not least, an effective system of appeal should be put in place, either the Electoral Commission itself or a Court, and it should have the power, if needed, to annul elections where irregularities may have affected the outcome.
- In conclusion, elections must be fair, free, genuine and periodic, with universal equal

³⁰ NEEDS and European Commission. *Compendium of International Standards for Elections*. (2008): Bruxelles. Elanders Graphic System AB. Pp. 161-163.

suffrage (for women and men) and secret ballot.

c. The importance of the role of women in the peace process³¹

It has already been stated that democratic elections are a central element of peace-building in post-conflict societies, because popularly supported and legitimate institutions including the separation of Government powers (Executive, Legislative and Judiciary) are a *must* for lasting solutions to conflicts. Only when these institutions are democratic and thus representative of different groups of society, can development and a stable peace be achieved.

The United Nations Security Council (UNSC) has stated clearly in its Resolution 1325 (2000)³² on Women Peace and Security, that a sustainable peace requires the full involvement and equal participation of women and men, not only in preventing conflicts, peace talks/peace agreement, building peace or in conflict resolution, but also in the following phase of peace-building and reconstruction of the state. It means that women must participate and be represented in all stages of armed conflicts as: the prevention of conflicts; to promote and maintain peace and security, they must participate during the discussions (peace talks), formulation and signature of peace agreements; furthermore, women must be involved in the electoral process, to guarantee their crucial role in all decision-making processes.

Additionally, in the report of the Secretary General *Women's Participation in Peace-Building* (2010)³³, it is stated that:

“Ensuring women's participation in peace building is not only a matter of

³¹ UN Secretary General. *Women's participation in peace-building*. Report of the Secretary General A/63/881-S/2009/304. (2010): New York. United Nations Security Council. Pp. 1-18. See the full resolution at: <<http://www.unwomen.org/en/docs/2010/9/women-in-peacebuilding-report-2010>> [Last accessed 15th January 2017].

³² UN Secretary Council, S/RES/1325(2000). See the full Resolution at: <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf?OpenElement>> [Last accessed 1st January 2017].

³³ UN Secretary General. *Women's participation in peace-building*. Report of the Secretary General A/63/881-S/2009/304. (2010): New York. United Nations Security Council. Pg. 3. See the full resolution at: <<http://www.unwomen.org/en/docs/2010/9/women-in-peacebuilding-report-2010>> [Last accessed 15th January 2017].

women's and girls' rights. Women are crucial partners in shoring up three pillars of lasting peace: economic recovery, social cohesion and political legitimacy”.

Increasing women's participation in the process of preventing, resolving and recovering from conflict depends on the adoption and put in practice of a gender perspective analysis and response to women's post conflict needs, which the report identifies as³⁴:

- Safety and security, including justice and respect of the rule of law;
- Confidence in the political process, through both inclusive dialogue and post-conflict elections;
- Access to basic services such as water and education;
- A functioning public administration, to manage public funds as a minimum;
- Economic recovery, above all, employment creation and infrastructural improvements.

Specifically, the second priority refers to the efforts of bringing more women into public office, elected and appointed and makes clear the importance of women in the overall electoral process.

Bringing a gender perspective into peace operations, thus in the Electoral Process as well, means adopting a gender mainstreaming approach. In simple words, gender mainstreaming envisages applying a gender perspective into all policies and programs at the initial stage of development, so that women and men are going to benefit equally³⁵. The fundamental concept has been defined by the United Nations as:

"...The process of assessing the implications for women and men of any planned action, including legislation, policies or programs, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men

³⁴ UN Secretary General. *Women's participation in peace-building*. Report of the Secretary General A/63/881-S/2009/304. (2010): New York. United Nations Security Council. Pp. 5-8. See the full resolution at: <http://www.unwomen.org/en/docs/2010/9/women-in-peacebuilding-report-2010> [Last accessed 15th January 2017].

³⁵ Lawrence, Jessica C. *Human Rights*. (2012): Williamsburg. Peace Operations Training Institute. Pg. 177.

as an integral part of the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of gender mainstreaming is to achieve gender equality".³⁶

To conclude, women have a fundamental role in the peace-building process to achieve lasting peace and a stable development during reconstruction. Their active and adequate participation in the electoral process becomes an undeniable condition. Elections assure the best opportunity to ensure that women's voices must be heard and considered³⁷.

In the report, *Women and elections*³⁸, a guide to promoting the participation of women in elections, the United Nations have defined the key components of electoral processes within a gender perspective.

It is important to remember that even in non-conflict situations, many obstacles still exist to women's equal participation in elections, such as gender stereotypes, psychological and traditional barriers, inequalities in access to education, training and resources. Discrimination against women drastically deepens during conflicts and in post conflict settings. Among other reasons, the volatile security situations, the prevalence of military factions (mainly masculine), high number of refugees and displaced women (and children), gender based violence (GBV) against women and girls, a weaker if not inexistent judicial and security services systems where human rights are not always respected.

³⁶ ECOSOC. *Coordination of policies and activities of specialized agencies and other bodies of the United Nations system related to the theme: Mainstreaming a gender perspective into all policies and programs in the United Nations system*. Resolution E/1997/L30. 1997. Pg. 3. See full text of resolution at: <http://www.un.org/womenwatch/osagi/pdf/ECOSOCAC1997.2.PDF> [Last accessed 16th January 2017].

³⁷ Rehn, Elisabeth and Johnson Sirleaf, Ellen. *Women, War and Peace. The independent Experts' Assessment on the Impact of Armed Conflict on Women and Women's Role in Peace-building*. Report of United Nations Development Fund for Women (UNIFEM). (2002): New York. UN Publications. Pg. 87. See at: <http://www2.unwomen.org/-/media/headquarters/media/publications/unifem/210table.pdf?v=1&d=20140917T101004> [Last accessed 16th January 2017].

³⁸ United Nations. *Women and elections. Guide to promoting the participation of women in elections*. (2005): New York. United Nations. Pg. 85. See at: <http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf> [Last accessed 15th January 2017].

However, during post-conflict settings, usually it is the opportunity to establish a new political system, as Constitution and Judiciary System, which provide the opportunity to institutionalize fundamental and necessary transformations to improve the rights and the electoral participation of women during the electoral process³⁹.

d. Aspects to be considered during Electoral Process

At this point, following the assessment scale outlined in *Women and Elections*, we are going to examine in depth some specific aspects of the Electoral Process, which can improve or worsen women's role, participation and representation. The UN report considers six aspects:

- **The legal framework**⁴⁰
 - **Peace Agreements:** The legal framework of a post-conflict stage refers to its new political system and laws. Firstly, if a peace agreement stipulates conditions for elections, it must be crafted and implemented with a gender perspective to ensure the respect of the human rights of women related to the Electoral System⁴¹.
 - **The Constitution:** It must guarantee equal rights for women, including civil, political and electoral rights, in conformity with the main international human rights instruments⁴².
 - **The Electoral Law:** It must be clear, comprehensive and transparent; in addition, attention should be paid to eliminate every element which can disadvantage women directly or indirectly. For example, Electoral Law requiring large monetary deposits

³⁹ Maley, Micheal. *Enhancing Women's Participation in Electoral Processes in Post-Conflict Countries*. (2004): New York. Office of the Special Advisor on Gender Issues and Advancement of Women – OSAGI. Pg. 4. See at: <http://www.un.org/womenwatch/osagi/meetings/2004/EGMelectoral/BP1-Maley.PDF> [Last accessed 15th January 2017].

⁴⁰ United Nations. *Women and elections. Guide to promoting the participation of women in elections*. (2005): New York. United Nations. Pp.1-20. See at: <http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf> [Last accessed 15th January 2017].

⁴¹ UN Secretary General. *Women's participation in peace-building*. Report of the Secretary General A/63/881-S/2009/304. (2010): New York. United Nations Security Council. Pg. 7. See the full resolution at: <http://www.unwomen.org/en/docs/2010/9/women-in-peacebuilding-report-2010> [Last accessed 15th January 2017].

⁴² Ibid. Pg. 3.

for candidatures or higher literacy levels, disadvantage women, since women usually have lower income levels and are less littered than men. Legally binding regulations issued by the election management bodies must be drafted very carefully, in a gender-sensitive manner, so that women's participation is enhanced⁴³.

- **Other laws must guarantee a favorable context:** Laws on political parties should permit equal participation of women and men in every step of the process. Laws on citizenship should give to women the opportunity to pass on their nationality to their children (otherwise, they will not have the possibility to vote when adults)⁴⁴.
- **The Electoral System:** This choice is of major importance. With the *proportional representation*, rather than the majority vote, more women tend to be elected. In fact, the majority system operates on a *winner-take-all basis*, with a single seat in each constituency, given to the candidate who receives the most votes; thus, parties are less likely to nominate women as their candidates. In contrast, in *proportional systems*, parties present lists of candidates, and voters can choose. Parties receiving sufficient votes, obtain a certain number of seats in proportion to their share of votes, and the candidates at the top of the list are elected. If women are placed high enough on the list, they can be elected. Furthermore, the way in which these two systems are implemented can determine a higher or lower level of women representatives being elected. In *proportional system*, closed lists improve women's chances of being elected since the voter selects the entire list as it is presented (if women are ranked high, they get elected). In *open lists*, on the contrary, voters mark their preferences for individuals. As concerns the *threshold*, it must be kept in mind that a low threshold provides an advantage to the small parties, including women's parties; but

⁴³ United Nations. *Women and elections. Guide to promoting the participation of women in elections*. (2005): New York. United Nations. Pp. 1-20. See at: <http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf> [Last accessed 15th January 2017].

⁴⁴ UN Secretary General. *Women's participation in peace-building*. Report of the Secretary General A/63/881-S/2009/304. (2010): New York. United Nations Security Council. Pp. 1-5. See the full resolution at: <http://www.unwomen.org/en/docs/2010/9/women-in-peacebuilding-report-2010> [Last accessed 15th January 2017].

proliferation of small parties disadvantage women, as higher positions on party lists tend to be filled by men. Therefore, a higher threshold, surprisingly, guarantees a larger election of women. In addition, in *proportional systems*, large electoral districts are much better for women, since their lists are longer⁴⁵. Finally, an Electoral Law can provide for special measures such as *reserved seats* or *quotas* for women and, more effectively, requiring that party lists include a certain proportion of women, for example with *zippered* or *zebra* closed lists, in which every other candidate is a woman. Nevertheless, the law should stipulate that when a female candidate is removed, she must be replaced by another woman⁴⁶.

- **Political participation**⁴⁷

Political participation for women means not only electing or being elected, but also becoming advocates, activists in civil society or political members and candidates. Thus, the role of political parties is crucial in giving women the opportunity to aspire to public office.

This is more likely to happen if:

- Parties practice internal democracy and have transparent nomination procedures, through primary elections or locally based candidate selection;
- The party management and party policy committees are gender-balanced;
- In proportional systems, parties adopt quotas or special measures, specifying a minimum number or proportion of women on their candidates list; parties prefer closed lists of candidates or zebra lists, as women have the possibility to be elected only if they are placed high enough.
- Parties back women during the political campaigns.

The creation of women's wings within the party, has a double impact. On the one side, they

⁴⁵ United Nations. *Women and elections. Guide to promoting the participation of women in elections*. (2005): New York. United Nations. Pp. 23-28. See at: <http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf> [Last accessed 15th January 2017].

⁴⁶ Ibid. Pp. 23-28.

⁴⁷ Ibid. Pp. 33-45.

provide a venue for women to become active and learn political skills, but on the other, they can marginalize women from the rest of the party. Finally, women can also enter the public arena also through civil societies organizations, trade unions or Media. Specifically, the Media has the important role in guaranteeing women equal coverage, both in quantity and quality⁴⁸.

- **Voter registration**⁴⁹

Voter registers are the official lists of citizens eligible to vote⁵⁰. Voter registration can be *State-initiated* or *self-initiated*. In the first case, it means that voters are automatically registered by local authorities based on residence or other eligible criteria; in the second case, every person must take the initiative to register him/herself to vote. With *State-initiated registration*, women have more possibilities to be entered in the registers, but the implementation of this method must be very accurate as women could be removed from the lists when they change their names after marriage. A procedure must be envisaged for refugees and internal displaced persons (IDP's), where the large majority is made up from women, therefore these citizens are not discriminated against and disenfranchised. *State-initiative registration*, thus, is much more inclusive even if it means less protection of personal data, which is a sensitive issue when dealing with ethnic groups or minorities. Finally, when requesting a photo identification to vote, laws should allow veiled women to use alternatives, e.g. fingerprints⁵¹.

- **Voter and Civic Education**⁵²

On this regard, we refer to all activities which aim to disseminate basic information on

⁴⁸ United Nations. *Women and elections. Guide to promoting the participation of women in elections*. (2005): New York. United Nations. Pp. 33-45. See at: <http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf> [Last accessed 15th January 2017].

⁴⁹ Ibid. Pp. 48-52.

⁵⁰ Ibid. Pp. 48-52. Voter register must not be confused with voter list, which is usually used to refer to a list of people registered to vote in a specific constituency in a particular election. See at: <http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf> [Last accessed 15th January 2017].

⁵¹ Ibid. Pp. 46-54.

⁵² Ibid. Pp. 57-62.

voting rights, the political system, candidates and specific information on where and how to vote. Alternatively, Civic Education has the objective of disseminating knowledge about the country's political system in the larger context and should be built into the Educational System.

Voter education also comprehends the publicity encouraging people to vote, with campaigns targeted specifically to women, especially in a situation of *double discrimination*, which occurs when women belong to a disadvantaged ethnic minority group. Literacy levels and languages spoken in the country must be considered, and the campaign should insist on the right of women to be elected, promoting a positive image of women as leaders and politicians and challenging the traditional patriarchal society. In addition, Voter Education should enhance the confidentiality of the ballot, which must be secret and independent, discouraging practices such as the *family voting* (when one member of the family casts vote for the entire family, or husband and wife enter the voting booth together), which do not respect the international standards of democratic elections, since women are deprived of their right to vote as unique person.

In voter and civic education, a very important role is filled by international organizations and local civil groups, which can support or advise women's participation by advocating for gender balance among candidates, election administrators and other subjects. Concerning Civic Education, women's groups can provide a substantial aid in transition from conflict to democracy, explaining the nature and importance not only of peace agreements, but also of national reconciliation, peace-building and respect of human rights.

- **Election Administration**⁵³

The way in which the Electoral Process is administered by the Election Management Body (EMB) is of fundamental importance for women's participation: it should act in an impartial,

⁵³ United Nations. *Women and elections. Guide to promoting the participation of women in elections*. (2005): New York. United Nations. Pp. 65-74. See at: <http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf> [Last accessed 15th January 2017].

independent and transparent manner. The Election Management Body can be constituted of civil servants, judges, government officials or other experts (guaranteeing impartiality and professionalism) or of prominent individuals appointed by the legislative or executive branch of the government to diminish the risk of politicizing the Electoral Process. The most important election administration's functions affecting women's participation to which the UN Report refers, are:

- Selecting election administrators: personnel at all levels should include women.
- Qualifying and training election administrators: where necessary, special training must be available for women to be qualified to assume specific positions.
- Compiling voter lists with simple procedures for voter registration.
- Educating voters: gender sensitive programs.
- Certifying candidates.
- Setting up polling stations: it must guarantee easy access to polling stations, defining convenient polling hours, providing security at the polling stations and preventing violence and intimidation.
- Designing and printing ballots: it is important to consider illiteracy, thus including party emblems or photographs of candidates.
- Overseeing voting to prevent family voting and fraud.
- Ensuring a level playing field for all candidates: in other words, creating equal conditions for all candidates.
- Preventing intimidation (during campaign and during the voting process).
- Counting ballots: ballots should be valid if the intent of the voter is clear.
- Adjudicating complaints and appeals.
- Planning for future elections: to identify the weaknesses and strengths of the system, the election body must collect data in a disaggregated manner, so that data referring to women or other disadvantaged groups are available for

improvements.

- **Election Observation**⁵⁴

Election Observation has mainly two objectives. First, enhancing the transparency of the process and second, increasing public confidence in election results, which can be carried out by international organizations as well as domestic groups or both. Observer groups must consider gender balance (equal number of women and men). A good observation mission must include a gender expert, able to assess how election procedures will affect women's participation in the electoral process⁵⁵.

⁵⁴ OSCE – Office for the Democratic Institutions and Human Rights (ODHIR). *Election Observation Handbook*. (2007): Warsaw. Poligraphus Andrzej Adamiak. Pp.1-89.

⁵⁵ Ibid. Pp. 1-89.

Chapter III. The Nepal case study

1. Historical and social context related to the Electoral Process

Reminding what was briefly mentioned in Chapter I, since popular protests in 1990, Nepal has entered a period of significant change, which has transitioned the country from an Absolute Monarchy to a Parliamentary Monarchy. In 1991, Nepal held its first multi-party election, however this led to a period of political instability, with several different regimes, not one of which survived more than a couple of years. In 1996, the Maoists began a violent insurgency, leading to a ten year long civil war, which resulted in the deaths of 12,000 people and the displacement of 100,000. It was only in 2005 that Maoists entered talks with the Seven Party Alliance (SPA) of pro-democracy parliamentary parties, opening the door to a peace agreement⁵⁶.

The Comprehensive Peace Agreement (CPA) was signed between the Government of Nepal and the Maoists in 2006, thus ending the worst period of Nepal's history. In January 2007, Nepal's authorities requested for support from the UN, which led to the beginning of the United Nations Mission in Nepal (UNMIN). Its objectives were to support the peace process in the country, particularly, to assist in monitoring the ceasefire arrangements and to provide technical assistance to the Election Commission of Nepal (ECN) in the planning, preparation and conduct of the election of a Constituent Assembly (CA) in a free and fair atmosphere. UNMIN's mandate included the following tasks:

- Monitoring the management of arms and armed personnel of the Nepal Army and the Maoist army;
- Assisting the parties in implementing the agreement on the management of arms;
- Providing technical assistance to the Election Commission in the set-up of the Constituent Assembly; and
- Assisting in monitoring the ceasefire.

⁵⁶ International Crisis Group. *Nepal's Election and Beyond*. Asia Report n. 149. (2008): Kathmandu. International Crisis Group. Pp. 2-6. See full document at: <<https://www.crisisgroup.org/asia/south-asia/nepal/nepal-s-election-and-beyond>> [Last accessed 15th January 2017].

In the field, UNMIN's activities concerned arms monitoring, mine action, electoral assistance, ceasefire monitoring, human rights, gender, child protection and social inclusion. The mission was dismantled in January 2011⁵⁷.

In turn, Parliament abolished the Monarchy (which had lasted for 240 years) and called for elections. Due to an Interim Constitution (IC) (2007), Nepali people voted for the Constituent Assembly (April 2008) and the Maoists emerged as the strongest political party. The 2008 elections were a turning point for Nepali history, given that the Maoists regrouped as an institutionalized party, which led the country on the road to a difficult transition towards real democracy. In 2012, however, due to a failure to deliver a new Constitution after four deadline extensions, the Constituent Assembly was dissolved. In 2013, the second Constituent Assembly elections took place, with the left-wing Nepali Congress winning the election. This pushed the former ruling Maoists to third place, leaving no party with a majority. Drafting of a new Constitution, however, remained at an impasse, and it is only in September 2015, after the terrible earthquake, that Parliament passed a landmark Constitution, which defined Nepal as a federal Republic and a secular country⁵⁸.

2. The most relevant issues involved in the Electoral Process

After the signing of the Comprehensive Peace Agreements, in 2007 the Interim Constitution entered into force and opened the way to the Constituent Assembly elections (April 2008). There are three fundamental issues to analyse in the Electoral System:

a. The Electoral System

The Electoral Process is defined in the Interim Constitution (IC). It provides 240 seats with the *First-Pass-The-Post* (FPTP) - majority system, 335 with the proportional system and 26 nominated

⁵⁷ For all the information about the UNMIN mission, see at: www.unmin.org.np [Last accessed 15th January 2017].

⁵⁸ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pp. 2-6. See at: <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download> [Last accessed 15th January 2017].

(in total 601 seats). This system is called a *parallel electoral system*, meaning that the two electoral races, majority and proportional, are held separately and the results do not influence one another. Respectively, for the majority race *First-Pass-The-Post*, the Interim Constitution calls for parties to apply the principle of inclusiveness when selecting candidates; while, for the *Proportional Representation* (PR) race, parties must guarantee a proportional representation not only of women, but also of other discriminated groups such as the Dalits, oppressed castes/indigenous ethnic groups, Madhesi and others. The most important provision of Interim Constitution, from a gender perspective, is that one third (33%) candidates nominated by the parties are required to be women, which applies to both races combined. On the contrary, no other specification is provided in the Interim Constitution regarding the principles of inclusiveness and proportionality, leaving the recommendation without a concrete reference, such as rates or numerical quotas. At least, Interim Constitution directed the compulsory representation of women in executive posts of political parties⁵⁹.

b. Quotas

The Constituent Assembly law passed in 2007 and filled some gaps left by the Interim Constitution concerning the representation issues, relating to the *Proportional Representation*. Indeed, the Constitutional Assembly defined what *proportionality* means in terms of the nomination process of the candidates: listed groups, including women, must be represented according to their share of population (as determined in national census). The result is that female candidates should constitute 50% of each party list. Regarding the *principle of inclusiveness* of the *First-Pass-The-Post*, the law did not add any detail, nor specify its meaning. Furthermore, women and men also should be equally represented in the other discriminated groups such as Dalits, indigenous groups and Madhesi, eliminating in this way the risk of *double discrimination*⁶⁰.

⁵⁹ Dahal, Dev Raj. *Elections and Conflict in Nepal. Country Analysis*. (2010): Kathmandu. Friedrich Ebert Stiftung. Pp. 5-8. See at: <<http://library.fes.de/pdf-files/iez/07722.pdf>> [Last accessed 20th January 2017].

⁶⁰ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pp. 3-5. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Pro>

c. Selection of candidates

The Electoral Law established a fundamental requirement for parties that, in selecting their winning candidates, must respect the proportional representation of women and other groups at the time of nomination. In other words, parties must select women for at least 50% of the winning candidates. This requirement was very important, as the law did not specify rules for the ranking of women on the candidate lists. The *Proportional Representation* rules established a closed list system, which would mean that the party leadership could choose winning candidates regardless of the candidates' ranking on the original list. As far as the small parties are concerned, they were exempted from the quotas regarding groups, but not those regarding women. Finally, it must be noted that while the Interim Constitution provided for a quota only at the nomination phase of candidates, the Electoral Law established the same requirement in the final selection of the candidates as well, guaranteeing an inclusive Constituent Assembly⁶¹.

d. The Electoral Commission of Nepal⁶² enforcement mechanism

The law's provisions concerning quotas must be respected, if not, the Election Commission of Nepal had the right to return the candidate list back to the parties that did not comply with the rules. However, the law did not specify what happens if the parties hand in a no-compliant list for the second time. Furthermore, the Election Commission of Nepal could make corrections to the candidate selection and had established that seats remained vacant in the case in which parties cannot fulfil the representation requirements in their final selection because of a lack of candidates from the appropriate group⁶³.

[cesses/2122-UNDP-GE-MAIN-English.pdf?download](#)> [Last accessed 15th January 2017].

⁶¹ Dahal, Dev Raj. *Elections and Conflict in Nepal. Country Analysis*. (2010): Kathmandu. Friedrich Ebert Stiftung. Pp. 5-8. See at: <<http://library.fes.de/pdf-files/iez/07722.pdf>> [Last accessed 20th January 2017].

⁶² ECN: Election Commission of Nepal.

⁶³ Dahal, Dev Raj. *Elections and Conflict in Nepal. Country Analysis*. (2010): Kathmandu. Friedrich Ebert Stiftung. Pp. 5-8. See at: <<http://library.fes.de/pdf-files/iez/07722.pdf>> [Last accessed 20th January 2017].

3. The role that women play in the Electoral Process and local best practices (First Constituent Assembly 2008).

After having pointed out the most relevant issues involved in the Electoral Process, we can analyse in depth women's participation in the individual stages of the Electoral Process. As reference, we will make use of the scale provided in the UN report “*Women and elections*”, which was referred to in the previous chapter⁶⁴. Here the steps in Electoral Process:

- Legal framework;
- Political participation;
- Voter registration;
- Voter and civic education;
- Election administration;
- Election observation.

Women’s movements and organizations evolution

For each electoral phase, we will assess women's participation in the aftermaths of the Nepal civil war (Comprehensive Peace Agreement, 2007 Interim Constitution and the Constituent Assembly election of 2008), outlining local best practices. Furthermore, we are going to make some considerations on the Second Constituent Assembly (2013) election and 2015 Constitution, to assess the improvement made by women in their participation to the political and Electoral Process. Before doing so, however, it is very useful to illustrate a historical overview of the Nepali women's movements, whose origins date back to the Rana's regime years. Women's political engagement has subsequently grown during the multi-party period and the Maoist Revolution, until the Comprehensive Peace Agreement⁶⁵: quotas established by the electoral law do not represent criteria

⁶⁴ United Nations. *Women and elections. Guide to promoting the participation of women in elections*. (2005): New York. United Nations. Pp. 57-62. See at: <http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf> [Last accessed 15th January 2017].

⁶⁵ Yami, Hsila. *Women's Role in the Nepalese Movement. Making a People's Constitution*. (2010). Monthly Review,

imposed to comply with an international democratic standard, but a legitimate and fair recognition of the women rights in political participation.

The first women's committee; Women's Committee-*Mahila Samiti*, was formed during the Rana period (mid '40s last century last century) with the aim of mobilizing women against the regime. It was only with the development of a multi-party system ('50s and '60s of last century) that many of the women who were active in these committees, joined the parties, launching at the same time various women's organizations. This movement initiated political debates around gender issues, lobbying to include women in decision-making structures, and culminating in the creation of a 500-member women's movement, the *Samyukta-Nepali-Nari Samiti* (United Nepali Women's Organization). Unfortunately, the movement lasted only one year, and because of its activities, women could obtain only two seats in Parliament (1959 elections)⁶⁶.

During the *Panchayat system* (1960-1991), all political parties were banned and civic movements were dismantled, including the women's movement. The only progress made during this period referred to Nepal's signing of the *Convention on the Elimination of Discriminations Against Women* (CEDAW) in 1975 and to some reforms of women's inheritance rights⁶⁷. The last decade of the XX century, characterized by the Maoist struggle and the civil war, saw women affirming themselves in public life and in traditionally-male activities such as heading households. Some women even joined the revolutionary forces. Among the Maoists, women counted for the 40% of their combatants⁶⁸. They also contributed to the Maoist struggle shaping ideology; besides that, serving as medical and communication staff or even soldiers. In opposition to this, women also advocated for peace, organizing popular marches and protests or implementing peace-building activities at the

An Independent Socialist Magazine. Pp. 1-3. See at: <<http://monthlyreview.org/commentary/womens-role-in-the-nepalese-movement/>> [Last accessed 20th January 2017].

⁶⁶ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pp. 1-10. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

⁶⁷ Ibid.

⁶⁸ Upreti, Bishnu Raj and Kolas, Ashild. *Women in Nepal's Transition*. (2016): Oslo. Peace Research Institute Oslo – PRIO. Policy Brief 11. Pg. 2. See at: <<https://www.prio.org/Publications/Publication/?x=9098>> [Last accessed 24th January 2017].

grassroots level⁶⁹.

During the civil war period (1996-2006), due to the Maoist insurgency and the counter-insurgency of the State, more than 13,000 people lost their lives. Among innocent civilians, the victims were mostly women and children: it is estimated that about 37,000 women were affected by the conflict. Despite the persistent patriarchal tradition and caste-based social structures not letting women entering the highest decision-making levels, in December 2006, Nepal ratified CEDAW's additional protocol⁷⁰. As far as it is concerned the Constitution-making process, the most important organizations promoting women's participation were Women's Alliance for Peace, Justice and Democracy, and Women's Alliance for Peace, Power and Constituent Assembly. Besides these, a fundamental role in enhancing women's inclusion and empowerment was played by national NGOs like *Sankalpa*, *Shantimallika* and *Sancharika Samuha*, which participated to the drafting of a National Action Plan⁷¹ (NAP) to implement UNSCR 1325 of 2000.

Finally, it is important to make a comment on the wider context of peace-building. Nepal's Comprehensive Peace Agreement drew attention to social inclusion and gender sensitivity. Based on the Comprehensive Peace Agreement, the Nepal Peace and Development Strategy 2010, recommended to target funds to gender-sensitive interventions in the context of the long-term peace-building efforts⁷². In the detail, Asian Development Bank Report (2014) demonstrates how women have contributed not only to economic recovery but also to the peace process, with a high participation into the Local Peace Committees (LPC), into the community mediation projects in Nepal's villages and community reconciliation. The LPCs were local bodies assisting

⁶⁹ Yami, Hishla. Women's Role in the Nepalese Movement. Making a People's Constitution. (2010). Monthly Review, An Independent Socialist Magazine. Pp. 1-3. See at: <<http://monthlyreview.org/commentary/womens-role-in-the-nepalese-movement/>> [Last accessed 15th January 2017].

⁷⁰ Paudel, Samira. *Women's Role in Peace-Building in Nepal*. (2001): Kathmandu. Friedrich Ebert Stiftung. Pp. 1-16. See at: <http://www.nepaldemocracy.org/gender/role_women_peacebuilding.htm>. In this paper, it is reported an exhaustive list of human rights, peace institutions and advocacy groups working for peace-building in Nepal. [Last accessed 15th January 2017].

⁷¹ Upreti, Bishnu Raj and Kolas, Ashild. *Women in Nepal's Transition*. (2016): Oslo. Peace Research Institute Oslo – PRIO. Policy Brief 11. Pg. 2. See at: <<https://www.prio.org/Publications/Publication/?x=9098>> [Last accessed 24th January 2017]. NAP refers to the implementation at national level of UNSCR 1325 (2000) on Women, Peace and Security.

⁷² United Nations and Nepal's international development partners. *Nepal Peace and Development Strategy, 2010-2015*. (2010): New York. United Nations. Pp. 1-100. See at: <<http://un.org.np/report/pds-2010-2015>> [Last accessed 15th January 2017].

Comprehensive Peace Agreement's implementation and promoting local conflict resolution, in the broader context of transitional justice and the Truth and Reconciliation Commission⁷³. Finally, as Jimenez Ximena points out, *in post-conflict societies the added value brought by women in facilitating peace processes thanks to their conciliatory and protective nature for the family, should not be underestimated*⁷⁴.

a. Legal framework of women's involvement in the Electoral Process

Peace talks and the drafting of the Interim Constitution

Nepali women were active in promoting peace negotiations through their public actions, like lobbying for peace and implementing peace-building activities. However, they were not involved in the peace talks as mediators, participants, observers or signatories. Despite the important role women played in the Revolution, the Maoist delegation for the peace talk was entirely composed of males. However, the Comprehensive Peace Agreements committed to ending discriminatory practices based on gender, providing special protection for women and children and prohibiting all kind of violence against them (commitments that subsequently were included in the Interim Constitution). Furthermore, for the first time, it was clearly stated that Women's Rights are fundamental rights, specifying that violence against them is a punishable crime. In addition, the importance of the right to reproductive health care and equal right to ancestral property were affirmed⁷⁵. Women's Rights did not improve during the interim government process which followed the Comprehensive Peace Agreements: The Constitution Drafting Committee was formed by only six males. However, after pressures and demands from women's organizations, the Committee included further 4 women and one member of the Dalit community. Thanks to these facts, at the last moment, in the Interim Constitution a clause to affirmative action for women's

⁷³ Asian Development Bank – ADB. *The Role of Women in Peace-building in Nepal*. 2013. Pp. 1-16. See the report at: <<https://www.adb.org/publications/role-women-peacebuilding-nepal>> [Last accessed 24th January 2017].

⁷⁴ Jimenez, Ximena. *Gender Perspectives in United Nations Peacekeeping operations*. (2008): Williamsburg. Peace Operations Training Institute. Pp. 71-73.

⁷⁵ Unfortunately, CPA provisions have not been implemented so far in reality. United Nations Development Program and Nepal's International Development Partners. *Nepal Peace and Development Strategy, 2010-2015*. (2010): New York. United Nations. Pg. 12. See at: <<http://un.org.np/report/pds-2010-2015>> [Last accessed 15th January 2017].

political representation was incorporated⁷⁶. The Interim Constitution stated the compulsory representation of women not only at the executive levels of political parties, but also 33% candidacy for women was adopted in the election of the Constituent Assembly⁷⁷.

The Constituent Assembly⁷⁸ of 2008 election

As already stated, the Constituent Assembly Electoral System introduced two fundamental provisions for women's political participation: The *Proportional Representation System* (PR) and the *Quotas*. The 2008 Constituent Assembly elections respected the requirements established by the Electoral Law. All political parties included in their Proportional Representation lists 50% female candidates and at least one third of the candidates (in both races: *Proportional Representation* and *First-Pass-The-Post-FPTP*) were women. Women represented the 37% of the total number of candidates and the 33% of the total number of elected (30 under the Majority System or FPTP, and 161 under the Proportional Representation System). In addition, the Cabinet elected six women, bringing the total number of women Constituent Assembly members to 197. Despite the complete compliance with law's requirements, women gained only 4 ministerial positions (General Administration, Tourism and Civil Aviation, Industry and Education) out of 24⁷⁹. Undoubtedly, the introduction of the Proportional Representation, the Quotas and the enforcement mechanisms envisaged by the law for Constituent Assembly election are very good practices which have permitted a real and concrete women's involvement in the process.

Other laws

If women are provided the opportunity to participate equally in the Electoral Process, then national laws must preclude direct and indirect discrimination against women, support equal access to

⁷⁶ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 8. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

⁷⁷ Upreti, Bishnu Raj and Kolas, Ashild. *Women's in Nepal's Transition*. (2016): Oslo. Peace Research Institute Oslo – PRIO. Policy Brief 11. Pg. 3. See at: <<https://www.prio.org/Publications/Publication/?x=9098>> [Last accessed 24th January 2017].

⁷⁸ CA: Constituent Assembly.

⁷⁹ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 4. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

resources and challenge the patriarchal society, which continues to be quite prevalent in Nepal. Unfortunately, even though the Comprehensive Peace Agreement and the Interim Constitution recognized women's rights and condemned gender discrimination, women (including girls) in Nepal are not yet adequately protected and continue being discriminated based on sex by national legislation and policies⁸⁰.

b. Political participation

Political parties in Nepal were more open to support female candidates due to the requirements of the Electoral Law rather than a belief in women's contribution to peace, security and development. Despite the positive percentage of female representatives in the Constituent Assembly (one third), their political influence was limited. As the 2014 UNDP report underlines, Nepal's widespread patriarchal culture resulted in a significant marginalization of female politicians. Furthermore,

“This inherent patriarchy is reflected in the organizational structure of the various political parties and government bodies, where women are poorly represented in membership and leadership position”⁸¹.

The statement of Savitra Bhusal, a Constituent Assembly member, was alarming:

“Whenever we raise an issue inside the Constituent Assembly, senior leaders walk out of the hall without bothering to listen to us. Even the Media ignore the issues that women raise... women haven't been given due importance in the Constitution-building process”⁸².

No further statement is required to assess whether Media's coverage was equal. Even though, Nepal had a pluralist Media landscape. The Media, however, were addressed by the Government, the

⁸⁰ Upreti, Bishnu Raj and Kolas, Ashild. *Women's in Nepal's Transition*. (2016): Oslo. Peace Research Institute Oslo – PRIO. Policy Brief 11. Pg. 2. See at: <<https://www.prio.org/Publications/Publication/?x=9098>> [Last accessed 24th January 2017].

⁸¹ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 9. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

⁸² Ibid. Pg. 9.

political parties and mayor business groups. During the elections, the Media contributed to guarantee an adequate and free atmosphere, but they sometimes acted self-censorship due to actions of armed groups⁸³.

Women's wings of political parties and the Inter-Party Women's Alliance did not enhance the situation and they seemed to have marginalized women rather than empowered them. Neither the parties' management nor committees were gender-balanced. Finally, in the case of Nepal, civil society organizations have empowered women and given them the opportunity to enter in the political arena after having acquired and practiced political skills⁸⁴.

It is very important to remember that 70% of female Constituent Assembly members faced various forms of coercion, from informal threats to acts of physical, psychological and sexual violence, usually by the police or family members. Furthermore, 36% faced legal actions due to their political participation⁸⁵.

Last, but not least, as far as political participation is concerned, it is fundamental to remember the importance of political representation at local level. Indeed, it has been demonstrated that women are more likely to be voted at a local level, which leads to more opportunities to advance to the national level. In the local election of 1997, due to a 20% reservation quota for women in local government, meaning that least one woman must be nominated in each ward and Village Development Committee (VDC), 36,000 women were elected as VDC members. 289 women were elected as VDC heads, out of 3,913 VDCs. However, no woman has been elected as head at the District and Municipality level⁸⁶.

⁸³ Dahal, Dev Raj. *Elections and Conflict in Nepal. Country Analysis*. (2010): Kathmandu. Friedrich Ebert Stiftung. Pg. 16. See at: <<http://library.fes.de/pdf-files/iez/07722.pdf>> [Last accessed 20th January 2017].

⁸⁴ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pp. 1-10. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

⁸⁵ The Graduate Institute of Geneva. *Women in Peace and Transition Processes. Nepal (2008-2012)*. (2016): Geneva. Pg. 3. See at: <<http://www.inclusivepeace.org/sites/default/files/IPTI-Case-Study-Women-Nepal-2008-2012.pdf>>. [Last accessed 15th January 2017].

⁸⁶ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 8. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

c. Voter registration

During the 2008 Constituent Assembly election, there were 17.6 million registered voters out of a population of around 27 million: a great result when compared to the 13.5 million who participated in 1999 General Election. The voter list was completed by the Electoral Commission, representing some form of *State-initiated* registration, which provides more guarantees for women to be included in the registers. This is a good practice. There were some complaints of individuals for being omitted, but they were quickly resolved. Most importantly, internal migrants could vote only if they went back to their home constituencies. Others, like government employees, could vote only in the *proportional representation* race, as they were registered as temporary voters⁸⁷.

d. Voter and civic education

Regarding voter education, in 2007 the Constituent Assembly introduced a new Voter Education Policy, with several important gender provisions for achieving gender equality, gender balance and social inclusion in general. For example, the educational materials in different languages and with specific attention to women and girls. Furthermore, to disseminate information to support women's participation as candidates and voters, the Constituent Assembly utilized radio jingles, posters, face-to-face training sessions, street drama, TV spots and interviews. Education programmes were also used at the grass-roots level, with specific projects encouraging local's women organizations to develop outreach activities for their members⁸⁸.

On the contrary, the International Crisis Group⁸⁹ points out that Nepali voters did not receive adequate and sufficient information about Constituent Assembly election, its objectives and its functioning modalities. A recent survey, the International Crisis Group report, states:

“Only a small portion of the people has heard about the issues raised by the political parties such as a federal State, proportional electoral system, etc.

⁸⁷ Ibid. Pp. 1-10.

⁸⁸ Ibid. Pg. 19.

⁸⁹ International Crisis Group is an independent, non-profit, non-governmental organization, with some 140 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict. See: www.crisisgroup.org.

Likewise, only a small portion understands what a Constituent Assembly is”⁹⁰.

However, parties did their best to encourage people to vote, issuing various manifestos. The Maoists were the first to organize their electoral campaign and the first to publish their manifesto. In general, the major political parties manifestos were characterized by similar patterns, based on Nepal history and the Constitution-writing process. Even if parties created advertising to encourage people to vote, their manifestos seemed more like a Government Program (no explanations regarding the electoral system, the functioning of the Constituent Assembly or ensuring political participation). Their campaigns did not specifically target women. The Electoral Commission, however, organized basic education programs across the country, as it will be described in the next paragraph. Disruption of the Civic Education and voter's information programs occurred in several districts due to the violent intervention of militant groups⁹¹. In conclusion, the *Report on Gender Mapping in the Field of Elections* states that not all the materials were sufficiently gender inclusive:

“Despite including illustrations of women in the poster design, women were not typically depicted in active roles. They were mostly portrayed as voters, standing behind the men. At a later stage, a voter education calendar was developed that had a much stronger gender balance which is a positive step forward”⁹².

On the contrary, an enormous effort was made by the international and civil society organizations, as will be illustrated in the next Chapter. All these efforts, indeed, promoted the positive role that women had to play, challenging the patriarchal society and encouraging the secret ballot.

e. Election administration

Election Administration refers to the work of the Electoral Commission of Nepal (ECN), a

⁹⁰ International Crisis Group. *Nepal's Election and Beyond*. Asia Report n. 149. (2008): Kathmandu. International Crisis Group. Pg. 12. See full document at: <<https://www.crisisgroup.org/asia/south-asia/nepal/nepal-s-election-and-beyond>> [Last accessed 15th January 2017].

⁹¹ Dahal, Dev Raj. *Elections and Conflict in Nepal. Country Analysis*. (2010): Kathmandu. Friedrich Ebert Stiftung. Pg. 7. See at: <<http://library.fes.de/pdf-files/iez/07722.pdf>> [Last accessed 20th January 2017].

⁹² United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 19. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

constitutional body responsible to conduct the entire electoral process. It is intended to be an independent body, even though most of its commissioners are recommended by the political parties⁹³. The President was assisted by four Commissioners. Their aims were: to compile the voters' lists, to prepare ballot papers, to ensure security and to manage the counting and initial complaints. The Electoral Commission deployed officers in all 75 districts, with a total staff of 240,000, which included between 5 and 13 Election Officials and support staff at each of the 21,000 voting booths. There were 40 million ballot papers.

Concerning women participation and women's representation at Electoral Commission of Nepal it was very low. Indeed, there was just only one female Commissioner. None of the Commissioners were women in 2012. In 2010, the Electoral Commission of Nepal female employees at the central level represented only the 18%; among 75 District Election Offices, only three were headed by women, representing the 4%. At the Electoral Commission of Nepal Secretariat, women represented only 12%⁹⁴. Dahal (2010) is quite critical about the Electoral Commission of Nepal work:

*“The Constitutional Assembly election witnessed many flaws in the election administration: voter lists were incomplete, intimidation and violence were rampant, candidates from small parties were threatened by militant groups, while the electoral campaigns and efforts to circulate the message to voters were not smooth”*⁹⁵.

However, it is important to remember that, with the support of UNDP⁹⁶ gender experts, the Electoral Commission of Nepal initiated a gender mapping, aiming to identify gender initiatives and gaps within the Electoral Commission, as well as during the Electoral Process, giving specific recommendations. Thanks to this, the Electoral Commission of Nepal developed a Gender Policy,

⁹³ Dahal, Dev Raj. Elections and Conflict in Nepal. Country Analysis. (2010): Kathmandu. Friedrich Ebert Stiftung. Pg. 16. See at: <<http://library.fes.de/pdf-files/iez/07722.pdf>> [Last accessed 20th January 2017].

⁹⁴ Ibid. Pg. 16.

⁹⁵ Ibid. Pg. 16

⁹⁶ UNDP: United Nations Development Program.

establishing a Gender Unit, creating a Consultative Group to provide gender – related proposals⁹⁷. Specifically, in 2011, the UNDP Gender Specialist worked closely with the Commission in drafting important documents, including a Gender Mainstreaming Policy to be applied in all areas such voter registration, civic education, voter education, drafting electoral laws and public outreach⁹⁸.

Concerning the security arrangements, the Army was required to be confined to their barracks (previously the Army was deployed to guarantee security backup). The Home Ministry, on its side, deployed around 100,000 security personnel (plus temporary policing personnel), with the main objective to assure a free and fair environment for campaigning and protecting the physical integrity of ballots places. Ensuring security was a priority in Nepal during Constitutional Assembly election. The Electoral Commission guaranteed a good program. Setting up polling stations is a fundamental issue in ensuring women's participation in the Electoral Process.

Note that during the Constitutional Assembly elections, there were 9,788 polling centres, with one to three booths each, totalling 20,866 polling booths for 17.6 million registered voters. The security conditions were adequate, giving women more opportunities to participate into the process and discouraging illegal practices such as the family voting, but mainly intimidation. Finally, the Electoral Commission was the primary authority to handle complaints, even if the Constitutional Assembly Court had the power to *hear and settle petitions relating to the election members of the Constituency Assembly*⁹⁹. The Electoral Commission had the right to void the polls in any station or constituency, if it determines that vote has been spoiled.

⁹⁷ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 12. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

⁹⁸ Ibid. Pg. 16.

⁹⁹ International Crisis Group. *Nepal's Election and Beyond*. Asia Report n. 149. (2008): Kathmandu. International Crisis Group. Pg. 17. See full document at: <<https://www.crisisgroup.org/asia/south-asia/nepal/nepal-s-election-and-beyond>> [Last accessed 15th January 2017].

f. Election observation

Election observation is a fundamental step in the Electoral Process as it assists in guaranteeing a fair and free election, endorsing its validity and diminishing the possibilities of fraud and intimidation. During 2008 Constituent Assembly election, there were 148 Nepali (with an estimated 60,000 national observers) and 32 international organizations (900 observers) that carried out electoral observation¹⁰⁰. In addition, there were also party agents and officials, representatives of the civil society and journalists as observers. However, being a National Observer needed some requirements: being an adult citizen and having at least a tenth-grade education. These requirements could be discriminatory against women, who usually have a lower educational level. At the same time, Organizations were required to carry out Observation Training. This was also a requirement to being an Electoral Observer. There were five main Nepali organizations involved: the Nepal Election Monitoring Alliance (NEMA), Nepal Election Observation Committee – Nepal (NEOC-N), General Election Observation Committee (GEOC), Democracy and Election Alliance Nepal (DEAN) and Constituent Assembly Election Observation United Forum (CAEOUF). Election observation played a fundamental role not only in guaranteeing transparency into the process, but also in increasing public confidence in the process. Its aim was lowering intimidation and enhancing security. As previously mentioned, it could reduce some traditional practices such as family voting. Family voting, indeed, spoils the secret ballot principle, impeding women into casting their vote in a free and fair manner, undermining their fundamental right to vote¹⁰¹.

4. The Second Constituent Assembly (2013)

As the Carter Centre points out (2013), the legal framework of the 2013 Constituent Assembly election was not different from that one of 2008, except for some provisions. One of the most important change was that voters did not know at the time of voting which candidates will be

¹⁰⁰ Dahal, Dev Raj. *Elections and Conflict in Nepal. Country Analysis*. (2010): Kathmandu. Friedrich Ebert Stiftung. Pg. 19. See at: <<http://library.fes.de/pdf-files/iez/07722.pdf>> [Last accessed 20th January 2017].

¹⁰¹ International Crisis Group. *Nepal's Election and Beyond*. Asia Report n. 149. (2008): Kathmandu. International Crisis Group. Pg. 17. See full document at: <<https://www.crisisgroup.org/asia/south-asia/nepal/nepal-s-election-and-beyond>> [Last accessed 15th January 2017].

selected by the parties. Indeed, political parties chose which candidates received *Proportional Representation* seats after the determination of the results, thus limiting the right of voters to choose freely their representatives. Another new provision concerned candidate registration: The Electoral Commission of Nepal created a computerized voter register with biometric data based on voluntary registration, which guaranteed an increase of registrations¹⁰². Specifically, around 28,000 enumerators were involved in the National Voter Registration Programme (13% of them were women): in 2011, the 30% of both computer operators and voter enumerators were women. As November 2012, a total of 10.89 million voters were registered with a percentage of women of 51%¹⁰³.

From a gender perspective, it is important to notice that 35.4% of candidates were women; out of 6,128 *First-Pass-The-Post* candidates, 667 were female, representing only the 10.8%. The Electoral Commission had to send back a high number of *Proportional Representation* lists to political parties for corrections, due to the unconformity to the social inclusion criteria. Political parties did not entirely respect the Electoral Commission of Nepal Code of Conduct, which required gender-sensitive campaigning and prohibited speeches promoting violence based on gender. The Carter Centre observers, moreover, reported that women were well-represented among Voter Education Volunteers, while at the district election offices, the female staff was at the minimum but only at the junior positions. Despite the Electoral Commission of Nepal had a gender-sensitive policy for hiring of polling staff, only the 35% of polling staff included women¹⁰⁴.

The Second Constituent Assembly included only ten women, who won their seats through the *First-Pass-The-Post* election. A hostile attitude against women from the political parties was responsible

¹⁰² The Carter Centre. *The Carter Centre Election Observation Mission to Nepal's Nov. 19, 2013, Constituent Assembly Election*. 2013. The Carter Centre. Pg. 4. See the entire final report at: <https://www.cartercenter.org/resources/pdfs/peace/democracy/carter-center-nepal-preliminary-statement-112113.pdf> [Last accessed 24th January 2017].

¹⁰³ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 15. See at: <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download> [Last accessed 15th January 2017].

¹⁰⁴ The Carter Centre. *The Carter Centre Election Observation Mission to Nepal's Nov. 19, 2013, Constituent Assembly Election*. 2013. The Carter Centre. Pg. 10. See the entire final report at: <https://www.cartercenter.org/resources/pdfs/peace/democracy/carter-center-nepal-preliminary-statement-112113.pdf> [Last accessed 24th January 2017].

of this result, since every mean was used to keep away women from the political arena. For instance, a strategy used by male politicians has been to deny female candidates appropriate tickets and to insert them in rough areas, against high-profile male politicians, so they had very few possibilities to win a seat¹⁰⁵.

To conclude, the 2013 Constitutional Assembly was less gender-inclusive than the 2008 Constitutional Assembly. However, we should underline that women's political participation has already started to decrease in previous years. Indeed, as the Civil Society Monitoring Report in Nepal (CSMR) reports, as of 2011, the share of women in the Cabinet had significantly dropped to 7.6% from 11.6% at the local level. This situation was even worse, since there was no female Chief District Officer with only 1.3% female Local Development Officers¹⁰⁶.

5. The New Constitution (2015)

The new Constitution came to effect in September 2015. Subsequently, the Parliament elected the first Nepal's female President, Ms. Bidhya Devi Bhandari, and its first female speaker, Ms. Onsari Gharti Magar. The new Constitution took important steps to prevent discrimination against women. It guarantees that the 33% of Parliamentary seats and Government positions are reserved to women. Specifically, it provides 3 seats in the 59-member National Assembly are reserved for women, while 8 members must be elected from each of the seven provinces. In addition, 3 members, at least one female, are to be appointed by the President in the Upper House, following the recommendations of the Government. At last, Nepal is the first country in Asia to include in its Constitution provisions against discrimination based on gender and sexual minorities¹⁰⁷.

6. International support to women in the Electoral Process

We have already stated the fundamental role played by the International Community in supporting the Government of Nepal during the electoral processes.

¹⁰⁵ Upreti, Bishnu Raj and Kolas, Ashild. *Women's in Nepal's Transition*. (2016): Oslo. Peace Research Institute Oslo – PRIO. Policy Brief 11. Pg. 3. See at: <<https://www.prio.org/Publications/Publication/?x=9098>> [Last accessed 24th January 2017].

¹⁰⁶ Ibid. Pg. 3.

¹⁰⁷ Ibid. Pg. 4.

In the next section, we are now going to illustrate in detail the assistance provided by the United Nations to Nepali Electoral Process along with its agencies and some international NGOs.

a. The United Nations Mission in Nepal (UNMIN, 2007)

UN Security Council Resolution 1740 established two roles for the UN relating to the Constituent Assembly election. On one side, UNMIN provided technical assistance to Electoral Commission of Nepal in the planning, preparation and conduct election in a free and fair atmosphere. On the other side, an independent team of Election Monitors was appointed to review all the stages of the Electoral Process and the conduction of the election. UNMIN deployed nine International Advisors to the Electoral Commission of Nepal headquarters and two International Advisors in each of the five regional offices. In addition, District Electoral Advisors were based in all 75 districts¹⁰⁸.

UNMIN included a Gender Affairs Section, whose aim was to support UNMIN's commitment to gender equality, through the following activities¹⁰⁹:

- Providing advice and technical guidance to the mission on gender related issues;
- Enhancing gender mainstreaming in all its activities;
- Helping the Nepalese authorities and civil society actors in the development of the national strategy on gender equality;
- Helping in the empowerment of women in the elections and civil society; and
- Reaching out to civil society and political parties with a view to promoting the empowerment of women in the peace process.

The Gender Affairs Section was composed of 13 members and had a field presence in all the five regions. Its priority was to enhance women's political participation at all levels in the political

¹⁰⁸ See at: <<http://reliefweb.int/report/nepal/nepal-fact-sheet-un-support-constituent-assembly-election>> [Last accessed 24th January 2017].

¹⁰⁹ See at: <<https://web.archive.org/web/20071213110315/http://www.unmin.org.np/?d=activities&p=gender>> [Last accessed 24th January 2017].

process, including the electoral process¹¹⁰.

Specifically, UNMIN worked with the Electoral Commission of Nepal in developing the legal framework of the Electoral System and the group representation requirements, like the specific definition of *proportionality*, the quota rules, and the enforcement mechanisms¹¹¹.

b. The United Nations Development Program (UNDP) role in Nepal Elections

The UNDP gave a fundamental support to the post-conflict Electoral Process in Nepal. Indeed, UNDP launched a multi-year programme named *Support to Participatory Constitution Building in Nepal*: its aim was to increase access and participation in the Constitution-building process as well as the Electoral Process. The UNDP Project followed three operational directives:

- Supporting the Constituent Assembly members, the Secretariat, technical advisors and support staff, guaranteeing that they have all the infrastructure, information, advice and training needed to work effectively.
- Facilitating dialogue between the Constituent Assembly and the public, so that the concerns of the subjects involved in the process are constructively considered. For this purpose, a Resource Centre is established with facilities for expert advice, training, meetings and public information.
- Involving public outreach through the Media; television, radio and community activities focused on increasing public knowledge of the Constituent Assembly activities and responsibilities.

The UNDP project applied gender mainstreaming and addressed gender equality through all the

¹¹⁰ See at: <<https://web.archive.org/web/20071213110315/http://www.unmin.org.np/?d=activities&p=gender>> [Last accessed 24th January 2017].

¹¹¹ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 12. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

three previous pillars¹¹².

Furthermore, UNDP through its *Electoral Support Program* launched the BRIDGE Training¹¹³, with the support of Electoral Commission of Nepal, IFES¹¹⁴ and International IDEA¹¹⁵. The project established several Train the Facilitator (TTF) and module courses on different thematic issues: the gender module was implemented since 2010 to raise awareness and develop the capacity of staff on gender issues. There was also a module for Media representatives to promote gender-balanced in Media coverage of elections and avoiding Media discriminations¹¹⁶.

c. United Nations Fund for Women - UNIFEM (now part of UN Women)

UNIFEM ran a fundamental role in assisting women during the political transition. Firstly, UNIFEM supported the mobilization of civil society organisations during the constitutional drafting and worked with Parliament on the drafting of the Electoral Law. Secondly, UNIFEM gave an important contribution in Civic Education, developing radio jingles and posters targeting women, and reviewing political manifestos to guarantee gender sensitivity. Thirdly, UNIFEM provided candidate training for women candidates¹¹⁷. Together with the local organisation *Jagaran Nepal*, UNIFEM conducted a map of potential women candidates in response to criticism from political parties that there were not enough women to run in Constituent Assembly elections. Thanks to this project, a list of 1,000 potential women candidates was published before the 2008 election. At last, but not least, UNIFEM sponsored *Shantimalika*, a women's network on peace and security: the

¹¹² United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 12. See at: <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download> [Last accessed 15th January 2017].

¹¹³ BRIDGE, which stands for Building Resources in Democracy, Governance and Elections, is a modular professional development program, designed to be used as a sustainable capacity development tool for Electoral Monitoring Bodies to promote ongoing learning within their organizations. Ibid. Pg. 33.

¹¹⁴ Electoral Foundation for Electoral Systems (IFES) is an international non-governmental organization supporting citizens' rights to participate in free and fair elections. See at: www.ifes.org.

¹¹⁵ International Idea – Institute for Democracy and Electoral Assistance: its aim is promote and advance sustainable democracy and to improve and consolidate electoral process world-wide. See at: www.idea.int.

¹¹⁶ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 18. See at: <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download> [Last accessed 15th January 2017].

¹¹⁷ Ibid. Pg. 12.

objective was to sensitize civil society on the national implementations of UNSCR 1325 (2000) and following SC resolutions on Women, Peace and Security¹¹⁸.

d. International Non-Governmental Organisations: NDI, IFES and International IDEA

The National Democratic Institute (NDI) has a very long presence in the country, being active since 1994. Its work was focused in two directions:

- Promoting and strengthening democratic political processes through political party development. Specifically, NDI used different tools like consultants and assessments, *Training of Trainer* (TOT) programs for political activists, the creation of the Inter Party Alliance (a central coordinating group) and the Future Leadership Academy.
- Supporting the institutional strengthening of the Constituent Assembly/Legislature Parliament, besides supporting citizens in overseeing the Electoral Process. The tools used were: community dialogue and the creation of the Next Generation Parliamentarians Group to build the members of Parliament governing skills and enhance their political effectiveness.

The National Democratic Institute provided also electoral assistance through Electoral Assistance and Voter Education. All the activities of NDI had a gender focus¹¹⁹.

The Electoral Foundation for Electoral Systems (IFES) has worked in Nepal since 1999 supporting the Electoral Commission of Nepal in all the steps of Electoral Process, specifically on strategic planning, voter registration and identification systems, electoral dispute resolution mechanisms, training programmes in organizational capacity, and gender inclusion¹²⁰.

Since 2006, the International Institute for Democracy and Electoral Assistance (IDEA) has given support to national actors in the Constitution-building process providing knowledge, handbooks,

¹¹⁸ Ibid. Pg. 25.

¹¹⁹ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 13. See at: <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download> [Last accessed 15th January 2017].

¹²⁰ Ibid. Pg. 13.

booklets and discussion papers on important themes such as Electoral System and Quotas or Participation in Constitution-making regarding women¹²¹.

7. International legal framework supporting women's involvement in the Electoral Process

International standards for women's participation in Electoral Processes can be identified referring to different kinds of international sources. The main international legal sources are:

- The *Universal Declaration of Human Rights*,
- The *International Covenant on Civil and Political Rights*,
- The *Convention on the Elimination of All Forms of Discrimination against Women - CEDAW* and
- The *Convention on the Political Rights of Women*¹²².

In its articles 2 and 21, the *Universal Declaration of Human Rights* affirms that “everyone is entitled to all the rights and freedom set forth in the Declaration without distinction of any kind...”¹²³. Furthermore, it provides that every person has the right to take part in the government, directly or through representatives and to participate to periodic and genuine elections¹²⁴.

The *International Covenant on Civil and Political Rights* reaffirms the same principles of the *Universal Declaration* in its articles 2(1) and 25¹²⁵.

The *Convention on the Elimination of All Forms of Discrimination Against Women* states that:

¹²¹ Ibid. Pg. 13.

¹²² Maley, Micheal. *Enhancing Women's Participation in Electoral Processes in Post-Conflict Countries*. (2004): New York. Office of the Special Advisor on Gender Issues and Advancement of Women – OSAGI. Pg. 9. See at: <http://www.un.org/womenwatch/osagi/meetings/2004/EGMelectoral/BP1-Maley.PDF> [Last accessed 15th January 2017].

¹²³ *Universal Declaration of Human Rights* (1948). Art. 2. See the full document at: <http://www.un.org/en/universal-declaration-human-rights/> [Last accessed 18th January].

¹²⁴ Ibid. Art 21.

¹²⁵ *International Covenant on Civil and Political Rights*. (1976). See the full document at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> [Last accessed 18th January].

“State Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

*- to participate in the formulation of government policy and the implementation thereof and hold public office and perform all public functions at all levels of government”*¹²⁶.

The *Convention on the Political Rights of Women*¹²⁷ reaffirms the right to vote for women on equal terms with men, specifically, women shall be eligible for election to all publicly elected bodies without discrimination, besides be entitled to hold public office and exercise all public functions.

As Maley (2004) points out, besides the fact that the same provisions are binding following the ratification of the treaty, *“it is however beyond question that they are of such moral force as to place the strongest obligations upon anybody charged with implementing post-conflict elections to comply with them”*¹²⁸.

¹²⁶ *Convention on the Elimination of All Forms of Discrimination against Women*. (1979). Art. 7. See the full document at: <<http://www.un.org/womenwatch/daw/cedaw/>> [Last accessed 18th January].

¹²⁷ *Convention on the Political Rights of Women*. (1953). Articles 1, 2 and 3. See the full document at: <http://www.un.org.ua/images/Convention_on_the_Political_Rights_of_Women_eng1.pdf> [Last accessed 18th January].

¹²⁸ Maley, Micheal. *Enhancing Women's Participation in Electoral Processes in Post-Conflict Countries*. (2004): New York. Office of the Special Advisor on Gender Issues and Advancement of Women – OSAGI. Pg. 9. See at: <<http://www.un.org/womenwatch/osagi/meetings/2004/EGMelectoral/BP1-Maley.PDF>> [Last accessed 15th January 2017].

Chapter IV. Obstacles and Propositions

In the previous chapters, the role of women in the Electoral Process has been enough illustrated. In post conflict countries, the traditional gender inequalities deepen during civil wars. However, in the Nepali case, what was gained during civil war in gender equality, it was not maintained during peacebuilding and reconstruction. Indeed, men reassert their authority as soon as the peace talks begin and, normally, no woman is included in this important phase. Researchers define this phenomenon as *the return to normalcy*, meaning the improvements in gender equality obtained during conflict period are lost¹²⁹. As Upreti and Kolas (2016) state:

*“The issue for policy-makers promoting gender equality is how to overcome post-conflict challenges to women’s greater equality, and if possible use the momentum of transition to strengthen the equal rights of women and foster women’s political participation”*¹³⁰.

As we have seen, in the Nepal case, strong women movements were developed in the 1990s. During the civil war the role of women was fundamental, challenging the patriarchal status quo. Even though, no female representative was present in the Peace Talks and in the first Interim Constitution drafting Committee. This lack of women representation was a huge challenge to achieve gender equality and gender inclusiveness. Since it was imposed gender quotas, women began to take their right place in Elections.

Researchers agree on the fact that Nepal is an example of successful transition to post-war women’s empowerment¹³¹: the wartime turmoil, indeed, seems to have paved the way for important

¹²⁹ Upreti, Bishnu Raj and Kolas, Ashild. *Women in Nepal's Transition*. (2016): Oslo. Peace Research Institute Oslo PRIO. Policy Brief 11. Pg. 2. See at: <<https://www.prio.org/Publications/Publication/?x=9098>> [Last accessed 24th January 2017].

¹³⁰ Ibid.

¹³¹ Similar situation was experienced after the Civil War in Liberia and Rwanda, where women have high political positions, counting Rwanda today with the highest % of women in Parliament of the world and Liberia with its first time a women as President.

achievements in women's inclusion in politics¹³². Nearly a decade later the Peace Agreements signature, the new Constitution came to effect and the Parliament elected Nepal's first female President and first female Speaker. However, today Nepal has still important gender gaps, as we have shown in the first Chapter, statistic section. More commitment is necessary to maintain what was gained so far in gender equality to overcome the persistent obstacles to achieve gender equality.

1. Obstacles

The major obstacles that have slowed down the gender inclusiveness and equality process during the transition in Nepal can be grouped under the following themes. These barriers are strictly interrelated one each other.

a. Culture of patriarchy and the caste system

Culture of patriarchy is still very strong in Nepal. Women continue to be marginalised in all the sectors of society, economy and politics. Indeed, according to the Global Gender Gap Report (2015), Nepal it is ranked as the 110th out of 145 countries; furthermore, it is placed at 22nd position in *Educational Attainment*, 94th in *Health and Survival*, and 70th in *Political Empowerment*. Patriarchy causes strong gender gaps. Primarily, the Educational Gaps: females are less educated than men. They are discriminated at different levels. For instance, women still suffer discrimination on provisions regarding citizenship that fail to guarantee equal rights to women¹³³.

The inherent patriarchy mentality is reflected in the organizational structure of the political parties and the government bodies, in which female representatives are just a few, in both, at the membership and leadership positions¹³⁴. More important, senior political leaders, obviously, males that take over the decision-making process during the Constituent Assembly work: instead of

¹³² Upreti, Bishnu Raj and Kolas, Ashild. *Women in Nepal's Transition*. (2016): Oslo. Peace Research Institute Oslo PRIO. Policy Brief 11. Pg. 2. See at: <<https://www.prio.org/Publications/Publication/?x=9098>> [Last accessed 24th January 2017].

¹³³ Ibid.

¹³⁴ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. See at: <<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

debating different options at the plenary sessions, contentious issues are decided in separate high-level, often secreted political meetings. Thus, women have not equal decision-making opportunities than men, despite the consistent presence in the Constituent Assembly (33%)¹³⁵: women are not judged competent enough just because they are females.

Furthermore, as a consequence of the patriarchal culture, in major political parties, women are subordinated to male leaders: in some cases, women's possibilities depend on their loyalty and kinship to specific leaders, than on merit¹³⁶. Because of this:

“Although women attended sessions more regularly than the average member, in the plenary they did not express themselves as frequently as men or advocate strongly for a distinct agenda”¹³⁷.

It is now fundamental to remember that further fragmentation derives from the caste system, which is a substantial and inherent factor of Nepalese society. Indeed, there are more than 125 different caste and ethnic groups in the *at-the-foot-of-the-mountains country*. The differences in caste, religion, language (there are over 93 spoken languages) and ethnicity, reinforce variabilities in gender equality within the caste hierarchy. For instance, most high-caste women (Brahmins, Chhetris and Newaris) have ample education possibilities, while most lower-caste and Dalit women have not even basic access to schooling¹³⁸.

The heterogeneity of women's identity among Constituent Assembly female members, led to women articulating specific political demands that reflect their identity groups rather than finding a common ground on women's issues. This division prevents women's caucus from achieving a unified voice for women¹³⁹.

¹³⁵ The Graduate Institute of Geneva. *Women in Peace and Transition Processes. Nepal (2008-2012)*. (2016): Geneva. Pg. 3. See at: <<http://www.inclusivepeace.org/sites/default/files/IPTI-Case-Study-Women-Nepal-2008-2012.pdf>> [Last accessed 15th January 2017].

¹³⁶ Ibid. Pg. 10.

¹³⁷ Ibid. Pg. 8.

¹³⁸ Upreti, Bishnu Raj and Kolas, Ashild. *Women in Nepal's Transition*. (2016): Oslo. Peace Research Institute Oslo PRIO. Policy Brief 11. Pg. 2. See at: <<https://www.prio.org/Publications/Publication/?x=9098>> [Last accessed 24th January 2017].

¹³⁹ The Graduate Institute of Geneva. *Women in Peace and Transition Processes. Nepal (2008-2012)*. (2016): Geneva. Pg. 10. See at: <<http://www.inclusivepeace.org/sites/default/files/IPTI-Case-Study-Women-Nepal-2008-2012.pdf>>.

At last, time constraint was a further obstacle: changes in the attitude of a patriarchal and caste society takes a long time and a consistent effort at all levels of society, which are goals attainable only at the long term, not in a short time window as the transitional period intended from the peace agreements to the first national elections.

b. Gender violence and gender specific cultural practices

Violence against women (VAW) and girls in Nepal is wide-spread, despite the promulgation of the Nepal's *Domestic Violent Act* and *National Strategy and Plan of Action on Violence Against Women*. The most serious problems are: domestic violence, marital rape, dowry-related violence and trafficking of women and girls for sexual exploitation. About a third of married women suffer from espousal violence; among women aged 15-49, 22% had experienced physical violence and 12% had experienced sexual violence at least once since the age of 15. Suicide is the single leading cause of death among women of reproductive age¹⁴⁰. Dalit women are the most discriminated and suffer from various traditional harmful practices such as *Badi* (prostitution as a caste practice of survival), *Chaupadi* (during the menstruation period, women and girls cannot enter the house and touch water and milk), *Kamlari* (selling daughters to domestic service) and *Deuki* (offering daughter to the local temple for protection) as well as child marriage, despite being formally prohibited by law¹⁴¹. Because of this situation, gender discrimination in accessing resources and education is quite strong.

c. Clienteles and patronage

Nepalese political culture has still deep traditional patron-client behaviours, at the leadership level as well as at the masses level. Under the proportional system, each party had the possibility to present closed list of candidates: male politicians can favour the nomination of their own relatives.

[Last accessed 15th January 2017].

¹⁴⁰ UN WOMEN- Office for the Coordination of Humanitarian Affairs OCHA. Inter-cluster Gender Working Group. *Nepal Gender Profile. Report March 2016*. Pg. 8. See at: http://reliefweb.int/sites/reliefweb.int/files/resources/nepal_gender_profile_-_updated_8th_march_2016.pdf

[Last accessed 15th January 2017].

¹⁴¹ Ibid. Pg. 9.

In fact, most of the women who got elected in the Constituent Assembly were the wives, widows, daughters of male politicians. As a demonstration of that, in the Constituent Assembly are present only 28 families!¹⁴² Obviously:

“This form of family-friendly politics likely undermined the women’s ability to collectively pursue a common and distinct agenda”¹⁴³.

d. Transitional security issues

Although Nepal has a considerable experience in elections (first General Elections in 1959) and 1991 multiparty elections manage a smooth transition to democratic rule, the civil war period (1996-2006) puts the country on its knees and left the society in a strong political instability, with important lack of security issues. Specifically, the campaign of 2008 elections was characterized by violence and intimidation with at least nine election-related murders¹⁴⁴. In the whole country, there were over 109 armed groups, some of them acting as warlords, carrying out killings, bombing and abductions (especially in the lowlands). These para-military groups pursued private gains recurring to violence and many of them boycotted and disrupted the Constituent Assembly elections¹⁴⁵. Analysing from a gender perspective, this political instability aggravated the wide-spread gender violence in Nepali society. Violence against women in politics is a common problem and a major obstacle to entry for women. Specifically, female politicians are more susceptible to political violence than their male counterparts and women leaders and voters suffer politically motivated violence at home and in public. Furthermore, if violence occurs, women has less supporting network and suffer stigma and stereotypes¹⁴⁶.

¹⁴² The Graduate Institute of Geneva. *Women in Peace and Transition Processes. Nepal (2008-2012)*. (2016): Geneva. Pg. 8. See at: <<http://www.inclusivepeace.org/sites/default/files/IPTI-Case-Study-Women-Nepal-2008-2012.pdf>> [Last accessed 15th January 2017].

¹⁴³ Ibid.

¹⁴⁴ International Crisis Group. *Nepal's Election and Beyond*. Asia Report n. 149. (2008): Kathmandu. International Crisis Group. Pg. 1 and 6. See full document at: <<https://www.crisisgroup.org/asia/south-asia/nepal/nepal-s-election-and-beyond>> [Last accessed 15th January 2017].

¹⁴⁵ Dahal, Dev Raj. *Elections and Conflict in Nepal. Country Analysis*. (2010): Kathmandu. Friedrich Ebert Stiftung. Pg. 16. See at: <<http://library.fes.de/pdf-files/iez/07722.pdf>> [Last accessed 20th January 2017].

¹⁴⁶ United Nations Development Program. *Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective. Country Report for Nepal*. (2014): New York. UNDP. Pg. 25. See at:

e. Legislative and policy existing framework not implemented

Nepal is signatory to 23 human rights treaties and international instruments defending women's rights and equality, including CEDAW and UN Security Council Resolutions 1325 (2000) and following Resolutions on Women, Peace and Security. At the national level, the country has developed several policies, programs and plans of action to promote gender equality. At the same time, various discriminatory laws have been amended. Among the most important laws adopted are: the *Human Trafficking and Transportation (Control) Act*, the *Domestic Violence Act*, the five-year *National Strategy and Action Plan on Gender Empowerment and Ending Gender-Based Violence*. More than 32 different discriminatory acts have been amended to guarantee gender equality¹⁴⁷. However, many civil society organizations complain that all this legislation is not implemented in the reality, leaving gender equality as a provision written in the paper. Furthermore, a large portion of Nepali women, are very often unaware of laws protecting them¹⁴⁸. The way towards to achieve total gender equality is still long.

f. Women's low level of formal education

We have already largely discussed about the lower women and girl's education and gaps respect to men and boys. What is important in this section is to underline the connection between the preparedness of women and political participation. Researchers agree on the fact that women representatives are impeded by limited education and literacy, as well as a lack of experience of the political system. For instance, only 27 out of the 197 women of the Constituent Assembly had previous parliamentary experience¹⁴⁹.

<<http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Electoral%20Systems%20and%20Processes/2122-UNDP-GE-MAIN-English.pdf?download>> [Last accessed 15th January 2017].

¹⁴⁷ UN WOMEN- Office for the Coordination of Humanitarian Affairs OCHA. Inter-cluster Gender Working Group. *Nepal Gender Profile. Report March 2016*. Pg. 5. See at:

<http://reliefweb.int/sites/reliefweb.int/files/resources/nepal_gender_profile_-_updated_8th_march_2016.pdf> [Last accessed 15th January 2017].

¹⁴⁸ Ibid. Pg. 5.

¹⁴⁹ The Graduate Institute of Geneva. *Women in Peace and Transition Processes. Nepal (2008-2012)*. (2016): Geneva. Pg. 10. See at: <<http://www.inclusivepeace.org/sites/default/files/IPTI-Case-Study-Women-Nepal-2008-2012.pdf>> [Last accessed 15th January 2017].

2. Propositions

As we have already underlined, despite some persistent obstacles, Nepal represents a successful example of gender-sensitive transition and elections. Future commitments should be addressed towards different directions, with the support, when possible, of international NGOs and donors. The overall aim is to concretize a gender-mainstreaming approach in elaborating and implementing strategies, policies and programs, with correspondent indicators and sex-disaggregated data. They can be used in future projects and gender-targeted interventions¹⁵⁰. Importance should be addressed to the following subjects:

a. Implementation of national legislation and policies

Firstly, gender-sensitive national legislation and policies must be fully implemented in the reality: women cannot enjoy gender equality in political rights, if they continue being discriminated in education and access to resources. Thus, equal rights and opportunities must be the basic rules for any kind of successful electoral assistance improvement. As stated previously, Nepal national legislation has been improved, but the missing issue is its real implementation.

b. Role of the Electoral Commission

It is not enough that current legislation ensures women's participation in elections. The most important step now, is its enforcement by the concerned authorities¹⁵¹. In Nepal, the Electoral Commission is a permanent body that counts on adequate funds. The Nepal Election Commission has the power to integrate gender into its internal operations and overall elections strategies. An effective gender-sensitive approach in policies and procedures in election administration and

¹⁵⁰ United Nations Development Program – UNDP. *Promoting gender equality in electoral assistance: Lessons learned in comparative Perspective 2011-2013*. (2014): New York. UNDP. Pg. 39. See at: <http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/promoting-gender-equality-in-electoral-assistance0.html> [Last accessed 9th February].

¹⁵¹ Upreti, Bishnu Raj and Kolas, Ashild. *Women in Nepal's Transition*. (2016): Oslo. Peace Research Institute Oslo PRIO. Policy Brief 11. Pg. 2. See at: <<https://www.prio.org/Publications/Publication/?x=9098>> [Last accessed 24th January 2017].

management would allow for greater and real institutional change¹⁵². Specifically, the Election Commission of Nepal has:

- To build a cadre of gender-responsive leaders and maintain the gender expert with its group of consultants to design adequate policies through the different electoral cycles.
- To promote representation of women in its senior decision-making levels;
- To conduct internal assessments of policies, including voter registration, polling day and voter outreach, with the objective of identifying gender equality shortcomings and elaborating an action plan to address them, including voter and education campaigns targeting women;
- To collect sex-disaggregated data, especially on voter registration, voter turn-out, staffing levels and candidate registration; otherwise, it will not be possible to improve gender equality at the next electoral cycle¹⁵³, and
- To consider international support and assistance.

c. Promoting women political participation in political parties

Women political participation has lightly declined from the 2008 to 2013 Constituent Assembly elections as already stated. The main reason is a persistent patriarchal society, especially inside the political parties. The most important leaders continue to be male politicians. Female representation at the decision-making levels is very low.

To guarantee gender-inclusiveness in the political arena, political parties must¹⁵⁴.

¹⁵² United Nations Development Program – UNDP. *Promoting gender equality in electoral assistance: Lessons learned in comparative Perspective 2011-2013*. (2014): New York. UNDP. Pg. 39. See at: http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/promoting-gender-equality-in-electoral-assistance0.html [Last accessed 9th February].

¹⁵³ Ibid.

¹⁵⁴ United Nations. *Women and elections. Guide to promoting the participation of women in elections*. (2005): New York. United Nations. Pg. 43. See at: <http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf> [Last accessed 15th January 2017].

- Place women candidates high enough on the candidate list to guarantee their election in the Proportional Representation system;
- Provide support and resources to ensure their election;
- Make certain that female representatives are fully represented in party leadership and policy committees; and
- Identify the advancement of women and gender issues as priorities in their platforms.

In this regard, the government should provide incentives to political parties to promote women candidates, including training and increasing access to broadcast time. Indeed, financial resources of Nepalese parties are uncertain: the annual fees are hardly paid by party members. The main sources of financing remain controversial and informal. For example: donations from businessmen, sales of licenses, extortion, support from party-based NGOs, friendly donors, rent-seeking through the selling of public properties and promotion of public servants¹⁵⁵.

d. Civil society advocacy and awareness of international instruments

The Nepal case, with its experiences of women's participation in the first and second Constituent Assembly elections, demonstrates that constant pressure, lobbying and advocacy by civil society women's groups is a fundamental way to change traditional patterns and weaken the resistance of male leadership. Civil society activism is also an undeniable factor to create a conducive environment for the participation of women in elections¹⁵⁶. It is fundamental to sensitize society about specific gender issues, promoting basic human rights awareness, primarily, political rights, and international instruments that guarantee gender equality. Civil society must continue to

¹⁵⁵ Dahal, Dev Raj. *Elections and Conflict in Nepal. Country Analysis*. (2010): Kathmandu. Friedrich Ebert Stiftung. Pg. 12. See at: <<http://library.fes.de/pdf-files/iez/07722.pdf>> [Last accessed 20th January 2017].

¹⁵⁶ Upreti, Bishnu Raj and Kolas, Ashild. *Women in Nepal's Transition*. (2016): Oslo. Peace Research Institute Oslo PRIO. Policy Brief 11. Pg. 3. See at: <<https://www.prio.org/Publications/Publication/?x=9098>> [Last accessed 24th January 2017].

advocate for a broader sensitization around the role of women in public life¹⁵⁷, challenging traditional discriminating gender stereotypes.

e. Changes in the attitude of patriarchal society

Changing the mentality of key decision-makers in a patriarchal society is perhaps the most difficult challenge that Nepalese women and society must face nowadays. It requires constant pressure to guarantee women equality in political participation¹⁵⁸.

f. The role of Media

Media should play a supportive role for involvement of women in politics and raise awareness of the significance of women's participation in decision-making processes. The actions that the Media should pursue should be the following¹⁵⁹:

- Provide gender-sensitive coverage of elections presenting active role female models and not reiterating negative stereotypes;
- Provide women candidates with the same airtime and print space guaranteed to men;
- Focusing attention on gender issues, using the adequate gender terms that Media usually don't and,
- Undertake voter and civic education programs aimed specifically to women.

g. International community

International community support and electoral assistance has been fundamental in the case of

¹⁵⁷ United Nations Development Program – UNDP. *Promoting gender equality in electoral assistance: Lessons learned in comparative Perspective 2011-2013*. (2014): New York. UNDP. Pg. 43. See at: <http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/promoting-gender-equality-in-electoral-assistance0.html> [Last accessed 9th February].

¹⁵⁸ The Graduate Institute of Geneva. *Women in Peace and Transition Processes. Nepal (2008-2012)*. (2016): Geneva. Pg. 8. See at: <<http://www.inclusivepeace.org/sites/default/files/IPTI-Case-Study-Women-Nepal-2008-2012.pdf>> [Last accessed 15th January 2017].

¹⁵⁹ United Nations. *Women and elections. Guide to promoting the participation of women in elections*. (2005): New York. United Nations. Pg. 45. See at: <<http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf>> [Last accessed 15th January 2017].

Nepal. Despite the good job of Election Commission of Nepal and civil society, during the transitional period and the Constituent Assembly elections, much of the funding comes from the International Community. It is desirable that the International Community continues to run this role during all the phases of the electoral cycle, specifically in gender advising, gender sensitization/awareness and electoral observation¹⁶⁰.

¹⁶⁰ United Nations. *Women and elections. Guide to promoting the participation of women in elections*. (2005): New York. United Nations. Pp. 1-85. See at: <http://www.un.org/womenwatch/osagi/wps/publication/WomenAndElections.pdf> [Last accessed 15th January 2017].

Conclusions

The 2006 signing of the Comprehensive Peace Agreement was the beginning of a long process of transition and peace-building in Nepal. After a decade-long civil war, Nepalese society was ready to start reconstruction. Women ran a fundamental role in the process, starting from the 90s, when the women movements gain strength.

Women achieved unprecedented representation in Constitution-making process, especially in the first Constituent Assembly in 2008. The second Constituent Assembly (2013) promulgated the new Constitution in 2015, and soon after, Nepal's first female President was elected. Nepal is considered as an exemplary case of successful post-conflict transition towards gender equality.

Since the Peace Agreements, inclusive and proportional representation became a key concept, with planned targets to increase women's participation in governmental decision-making structures. More importantly, the Interim Constitution and Electoral Law stated the compulsory representation of women in executive posts of political parties and 33% candidacy for women in the election for the Constituent Assembly through a combination of the First-Past-The-Post and the Proportional Representation Electoral System. Also at the local level, specific quotas were stipulated: reservations for women at the District and Ward level were 33%.

The first Constituent Assembly had nearly 33% female representatives: a great and unprecedented achievement. In the Constituent Assembly, women could bring their concerns into the Constitution-making process. After the failure of the first Constituent Assembly in promulgating a new Constitution, the second Constituent Assembly was characterized by a lower presence of female representatives, due to specific tactics used by political parties to deny women access at the highest positions. Despite the obstacles, women political participation was guaranteed by the Constitution promulgated in 2015 that reserves to women 33% of Parliamentary seats.

Obstacles that women had encountered during the process, still exist. Discrimination due to

patriarchal mentality and caste system, that manifest as gender violence and security issues. Also weak implementation of national legislation and policy framework with gender sensitive provisions and educational discrimination persist. Despite these obstacles, women participation in the political arena can and must be improved, guaranteeing the gender mainstreaming approach in the decision-making process at all levels, mainly within the Electoral Commission. Moreover, implementing gender-sensitive legislation, promoting women participation in the political parties and Media coverage and, above all, avoiding gender discrimination and patriarchal and caste mentality.

In conclusion, a lot of work has been done so far; now, Nepal society must continue in the direction of gender inclusiveness and equality, as stated in the new Constitution. The legal framework exists. It is just a matter to put it in place. In other words, *let's go from words to actions*.

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