

Expertise, Labour, and Mobility in Nepal's Post-Conflict, Post-Disaster Reconstruction

Construction, Finance, and Law as Domains of Social Transformation

Policy Brief #1

Law

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This brief emerges from a three-year collaborative research project that explored how expertise, labour and mobility affected the overall reconstruction process after the 2015 earthquake by inquiring into the three domains of construction, law, and finance. Research was conducted from March 2018 to February 2020 in three study sites in Bhaktapur, Dhading, and Sindhupalchowk districts, with additional interviews in Kathmandu. The study was funded by Canada's Social Sciences and Humanities Research Council (SSHRC), and implemented through a partnership based at the University of British Columbia in Canada, and Social Science Baha and the Central Department of Anthropology at Tribhuvan University in Nepal. See details at <https://elmnr.arts.ubc.ca>.

Post-disaster reconstruction is a complex process of social transformation, whereby multiple forms of expertise, knowledge, and political-economic relations come into play, to reconfigure relationships between state and citizen as well as local, national, and international communities. Following the devastation of Nepal's 2015 earthquakes, the Government of Nepal promulgated the Reconstruction Act 2015 and established the National Reconstruction Authority (NRA). The NRA subsequently introduced various reconstruction-related laws, policies and provisions with the objective of facilitating 'owner-driven' housing reconstruction as well as heritage reconstruction, under the 'Build Back Better' approach. For this purpose, the NRA deployed 2700 engineers to assist affected households with building 'earthquake-resistant houses'—a process incentivised by the provision of Private Housing Reconstruction Grants of NPR 300,000 (ca. USD 2500). The government also offered subsidised loans of up to NPR 2.5 million in the Kathmandu Valley and NPR 1.5 million in other districts at 2 per cent interest for urban reconstruction.

Law Domain

Nepal's post-earthquake reconstruction was governed by various institutions, such as the NRA, as well as a series of laws, policies, and guidelines promulgated and enacted by various administrative authorities to facilitate the process. Political upheavals and unstable governments (before the constitution was promulgated

in 2015, establishing the present federal structure of governance that was implemented in 2017) resulted in the delayed establishment of the NRA. Frequent changes of the Chief Executive Officer (CEO) at the NRA had a significant impact on the progress of reconstruction. These political and policy dynamics affected people's everyday life, with complexities related to landownership, citizenship documentation, and financing widespread during the damage impact assessment and identification of housing grant beneficiaries. Further, in Bhaktapur Municipality and other sites in the Kathmandu Valley, additional 'heritage codes' shaped the outcome of private housing reconstruction.

Documentation and Identification of Earthquake-Affected Households

The Government of Nepal conducted multiple damage assessment surveys. For immediate relief distribution, an initial damage assessment was carried out by the then VDCs (village development committees) with the involvement of local political leaders and teachers a few days after the 25 April earthquake. District Disaster Relief Committees (DDRCs) carried out additional formal standardised damage assessments within a month of the earthquake. These deployed expert teams led by engineers in order to gather comprehensive data to identify affected people. This assessment was controversial as it left out many households, largely due to the limitations of technical expert teams in understanding local living

arrangements, and also due to political interference during the damage assessment. As a result, the NRA itself carried out a third round of damage assessment in early 2016 with support from the Central Bureau of Statistics (CBS) by deploying engineers in the field. This assessment was considered the definitive identification process for the disbursement of 'housing grants' to commence reconstruction.¹

At first, the government announced NPR 200,000 (ca. USD 1700) as a flat grant amount for private housing reconstruction, but the policy was later revised in September 2016 when the government promised NPR 300,000 for every household.² The beneficiary selection guidelines³ considered individually held citizenship cards and landownership documents as the primary basis for households to apply for private housing reconstruction grants. This policy created problems during the damage assessment and housing grant disbursement in many localities.

House Inspection and Grant Disbursement

According to the 2015 Reconstruction Act, eligible homeowners were required to follow certain guidelines before accessing each of three tranches of the reconstruction grant. Inspections at each stage determined whether a beneficiary was eligible for the next instalment. To make housing grant distribution easier and accessible, the NRA forged an agreement with banks. Beginning in July 2016, the NRA signed housing grant agreements with designated beneficiaries⁴ who were provided with a 'housing reconstruction grant agreement card' (*awas punarnirman anudan samjhauta patra*), which is also known as the participation agreement (PA) card. This became the official document required to access the housing grant from banks. Banks had to strictly follow grant disbursement procedures as per their agreement with the NRA, but lack of communication and coordination among the concerned institutions created a perception of the grant disbursement process as being slow and complicated.

Reconstruction Deadlines

Deadlines affected the pace of reconstruction. The NRA had set the deadline for allocating the second tranche for mid-April 2018, and for overall reconstruction for mid-July 2018. However, most households did not have enough stone and wood, and also lacked sufficient available labour to complete their reconstruction on time. Nonetheless, many built a small foundation

quickly in order to qualify for subsequent tranches—resulting in many one-roomed houses unsuitable for their general needs.

Meanwhile, in September 2018, the NRA extended the deadlines for receiving the second tranche of the government's private housing grant to mid-January 2019 and for the third to mid-May 2019. A public notice set 30 December 2018 as the deadline for earthquake victims to return the grant money if they had been unable to begin building their house even after receiving the first tranche. These deadlines were subsequently extended several times, with the latest being with a notice in November 2020, which fixed 15 December 2020 as the final date by when the grant agreement would have to be signed.⁵ Likewise, the first tranche would have to be received by 28 December 2020, the second by 12 February 2021, and the final one by 14 May 2021.

Grievance Registration and Redress

Until authority could be delegated to ward- and municipal-level grievance management committees after the 2017 elections, the centralised grievance review and redress system delayed the process of grievance redressal, leaving many worried and confused.⁶ It also placed the burden of additional reconstruction costs on those who had filed grievances since they had to start rebuilding their houses even as their claim was under review in order to meet the grant deadlines. The delays in redress also deprived many poor and marginalised citizens of accessing funding from I/NGO and donors that would have provided reconstruction support for those who did not receive government funding, as stated in the NRA guidelines for NGOs.⁷

For a long time those with multiple households within a single house, those without land ownership documents (such as in squatter settlements), those living on *guthi* (religious trust) land or public land, and those who were landless, were not eligible for reconstruction grants, nor could they file complaints. There was uncertainty among these groups about whether and how they could receive a grant. There were also grievances regarding eligibility for retrofitting grants rather than for reconstruction and also the other way round. Grievances related to house design, construction materials, or resettlement plans were rarely considered for review. Whether some families who had rebuilt houses with their own resources would be able to receive reconstruction

Sindhupalchowk

In Sindhupalchowk, most research participants were already in possession of essential legal documents, such as citizenship, marriage, and kinship certificates, prior to the earthquake, but many people faced complications with landownership certificates. Most households had not partitioned their property and updated their land titles for two or three generations. To rectify this situation, people had to make multiple trips to the District Land Revenue Office at Chautara, the district headquarters. As citizens from all over the district flooded Chautara, the Land Revenue Office was reported to have been overcrowded for months after the earthquake.

Bhaktapur

Land ownership is a major source of economic security for Newar households in Bhaktapur. Multigenerational joint family structures and their associated property ownership patterns created tensions among brothers during the reconstruction process in Bhaktapur. Many households belonging to brothers had been living together in the same house prior to the earthquake, yet land parcels were small. Tensions between brothers increased further after the earthquake as each had to build a house in their own name in order to get the housing grant as an eligible earthquake-affected household with a separate landownership certificate. Many brothers fought legal battles even for a small portion of land.

Since the NRA assessment procedures overlooked these household complexities, the Bhaktapur Municipality carried out a damage assessment of its own under the direction of the Chief District Officer (CDO)* even before the election of the local government in May 2017. In contrast to the NRA, the municipality listed both partially and completely damaged houses as affected, and, acknowledged multiple families living in the same house as separate earthquake-affected households in their own right. The NRA eventually drafted revised policies, which allowed all affected households to be eligible for the reconstruction grant.†

* The Chief District Officer (CDO) is the highest-ranking administrative officer in a district.

† National Reconstruction Authority, 'News: Housing grant distribution process simplified', 15 February 2020, <http://nra.gov.np/en/news/details/vvIBeet91TypYfswcltzVJyubwoP7IHW1H8wq7qS72I>.

Dhading

In Borang village, Dhading district, people possessed essential papers, such as passports or citizenship cards, marriage and death certificates. Since many people from this area migrate to work abroad, many people had acquired these legal documents in order to process passports and permits for foreign employment. Some residents even had single women and disability cards to access social security grants. However, in most cases, landownership had not been transferred from previous generations to successive ones prior to earthquake. This was in large part due to the mono-ethnicity of the village residents, limited as they were to two Tamang clans (and a few Dalit households). Formal or legal landownership rights were only registered with the government on rare occasions when land was bought from outside the clan.

After the earthquake, due to the high volume of cases at the District Land Revenue Office in the district headquarters of Dhadingbesi, it took many people two to three months just to transfer titles. In most cases, properties were legally transferred from deceased ancestors to the name of the living elders or the grandparents in the household. Often, people built new houses in their own names, but the land remained in the name of their parents or grandparents.

grants was also not clear until a guideline was issued.⁸ Affected people hardly accessed subsidised loans, and there were very few grievances related to loan procedures. Likewise, many affected people were not aware of the grievance process or criteria, which became even more confusing after the guidelines were amended numerous times.

Recommendations

- Government agencies focused on disaster risk reduction—whether from earthquakes, landslides, floods, storms, or other forms of natural disaster—should put in place clearly defined rubrics for identifying ‘houses’ and ‘households’ *before* disaster strikes.
- Known relationships that consider the full range of potential linkages between the social, material, and legal elements of ‘the home’ should be specified in a typological form that aids planners and providers. These rubrics should be developed through community consultation, with reference to relevant social science literature. They should consider kinship arrangements, common culturally and regionally

specific patterns of residence and mobility, actual uses of domestic space, and existing relationships between physical structures for human habitation and ownership of the land upon which they sit.

- In the Nepali context, these rubrics should be established in line with the mandates and institutional mechanisms of the new National Disaster Risk Reduction Management Authority (NDRRMA), and further scaled at the federal, provincial, and municipal levels, with the potential for variation in each locality.
- Grievance registration, management and redress should be quickly and easily accessible, with policies formulated in consultation with affected people and communities. Policies and procedures should be flexible, adaptive and responsive to people’s needs and vulnerabilities, grounded in the principles of social justice.
- Finally, information about these and other elements of recovery and reconstruction plans, policies and guidelines, should be communicated early and often (before, during, and after the actual disaster) at the local level in a language members of the community can understand.

Notes

1 The Asia Foundation, *Nepal Government Distribution of Earthquake Reconstruction Cash Grants for Private Houses* (Kathmandu: The Asia Foundation, 2016), <https://asiafoundation.org/wp-content/uploads/2016/12/Nepal-Govt-Distribution-of-Earthquake-Reconstruction-Cash-Grants-for-Private-Houses.pdf>.

2 The new policy not only increased the reconstruction grant but also included up to NPR 100,000 for retrofitting grants. National Reconstruction Authority. 2019. ‘Publications: Procedure: Grant Disbursement Procedures for Private Houses Destroyed by the Earthquakes 2073 (2016)’, National Reconstruction Authority, accessed 16 October, <http://nra.gov.np/np/resources/details/bUVxZtX4uarwnld-diIrr4Ia7SwaObKpVmXg2wpApCs>.

3 Ibid.

4 The Asia Foundation, op cit.

5 National Reconstruction Authority. 2020. ‘News: Last deadline set to receive government grant’. 6 November, <http://www.nra.gov>.

[np/en/news/details/Y4PNVdXxGVNWHULxKNc4iLrN5ofvfEPV11mW8UxoEQ](http://nra.gov.np/en/news/details/Y4PNVdXxGVNWHULxKNc4iLrN5ofvfEPV11mW8UxoEQ).

6 National Reconstruction Authority. 2074 (BS). ‘The Standard Operating Procedure for Grievance Management Regarding Reconstruction 2074’ (in Nepali) (Kathmandu: National Reconstruction Authority).

7 National Reconstruction Authority. 2072 (BS). ‘The Standard Operating Procedure for Guiding the Operation of the Non-Governmental Organizations for Reconstruction and Relocation of the Earthquake Victims 2072’ (in Nepali) (Kathmandu: National Reconstruction Authority).

8 National Reconstruction Authority. 2076 (BS). ‘Standard Operating Procedure for Providing Reconstruction Grant to the Beneficiaries that Had Built their Houses Before the Engineers were Deployed’ (in Nepali) (Kathmandu: National Reconstruction Authority). nra.gov.np/uploads/docs/KAGaGpKHQY190705064950.pdf.

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