

Security Council Resolution 1325: Civil Society Monitoring Report

Nepal



A Project of the Global Network of Women Peacebuilders

Federal Democratic Republic of Nepal

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Acronyms

CA - Constituent Assembly

CPA - Comprehensive Peace Accord

CSO - Civil Society Organization

FPTP - First Past the Post

GBV - Gender Based Violence

GoN - Government of Nepal

LPCs - Local Peace Committees

MOPR - Ministry of Peace and Reconstruction

NAP - National Action Plan

NGO - Non Government Organization

NPTF - Nepal Peace Trust Fund

SGBV - Sexual and Gender Based Violence

TF - Task Force

TRC - Truth and Reconciliation Commission

UNSCR - United Nations Security Council Resolution

WPS - Women, Peace and Security

I. Women, Peace and Security Profile

A. Nature of the Conflict

The ten-year long insurgency in Nepal, launched on 13 February 1996, reached formal conclusion when the Government of Nepal (GoN) and the Maoists signed the Comprehensive Peace Accord (CPA) on 21 November 2006. The conflict remained a low-grade insurgency until 2002 when it escalated and began disrupting daily lives, especially in the countryside. Structural inequality, exclusion and discrimination (gender, caste, class, geographical), concentration and abuse of power, poverty and unemployment, lack of access to opportunities, failure of state governing system, and varying ideologies were key factors behind the insurgency. During this period, Nepal, once a peaceful nation, witnessed damages of lives, infrastructure

and development activities unparalleled in its history. More than 13,000 men, women and children are estimated to have died during the conflict, between 100,000 to 200,000 people were displaced¹, while even now the whereabouts of more than 1,000 people remains unknown. Infrastructure worth billions was destroyed due to the conflict. Of the total 3,915 Village Development Committees (VDCs), more than 1,772 VDC buildings² were destroyed by the conflict, and some 2,646 development structures damaged.

Post Conflict Situation: The conclusion of the conflict brought Nepal at the crossroads of redefining itself as a country and nation. However, despite the damages and destruction the conflict also paved the way for multiple transitions:

- from monarchy to a republic;
- from authoritarianism to democracy and human rights;
- from a hegemonic to an inclusive and participatory system of governance;
- from a state pervaded by one religion to secularism; and
- from a heavily centralized unitary system to one characterized by decentralization and autonomy at the regional and local levels³.

Nevertheless, the initial hype and expectations of people following the CPA, the 2006 April Janaandolan (people's movement) and the downfall of monarchy remain far from being attained. Inter and intra-political party conflicts, power sharing, security sector restructuring, reconstruction and rehabilitation of former People's Liberation Army personnel, addressing Tarai-Madhesh⁴ issues, providing peace dividends, addressing root causes of conflict, addressing transitional security and justices, addressing concerns of other identity, deciding federal structures of the country, inability to make a Constitution, deteriorating rule of law and increasing impunity have become bones of contention towards the peace path. Subsequently, Nepal is currently in a fragile transition phase.

B. Impact of Conflict on Women

The armed conflict between 1996 and 2006 was deeply gendered, not only concerning its consequences, but also involving its origin – a study conducted for Gender and Social Exclusion Assessment in 2005 revealed 176 provisions in 83 pieces of legislation discriminating against women - the ideologies underlying it and the dialogues surrounding it, both by parties confronting one another and the analyses carried out in politics and in academic research. The impacts of conflict have dealt even more unexpected and far-reaching blows on women, regardless of whether it is women who joined as combatants, or were related to men taking part in it due to their residing in particular conflict affected areas, their own or their family members' political beliefs or their ethnic and economic backgrounds. Socially and economically, girls and women became overburdened with responsibilities. Women became heads of households and solely responsible for their families as men and young people were compelled to leave their villages for fear of being caught in the conflict between state security forces and the Maoists. Women began taking up work traditionally restricted to men – such as ploughing and performing funeral rites. With increasing insecurity of food supply, women and girl's health were threatened by inequitable food distribution resulting in malnutrition

1 (2009) Keeping the Beijing Commitment Alive...Nepal NGO Report on Beijing +15. National Network for Beijing Review, Nepal. SAATHI.

2 Ibid

3 (2009) Nepal Human Development Report 2009. State Transformation and Human Development. UNDP. Kathmandu, Nepal

4 Current Madhesi protests surfaced in late 2006. The trouble soon took a different turn when the country's draft interim constitution came into effect on 15 January. Key demands made by various Madhesi groups are amendments to the interim constitution to include provisions for ethnic and regional autonomy with the right to self-determination and proportional representation based on ethnic population for the elections to CA; an autonomous and separate independent Terai state; equal participation of Madhesis in government security forces; fresh delimitation of electoral constituencies based on populations; and eviction of non-Terai officials and administrators from Terai region

To date, there is no accountability for the thousands of crimes of sexual violence and other appalling human rights abuses committed during the insurgency. Splinter groups arising across the nation are worsening the situation.

and severe anemia. Educational opportunities for girls further diminished due to displacement and fears of kidnapping, forced induction and being caught in cross fires. With little education and no skills girls were often forced into exploitative jobs.

Abduction and torture, rape and sexual abuse by both warring sides became widespread; forceful induction within the insurgent party increased; intimidation, murder, terror and forced displacement, number of widows, as well as women 'forced to lead the family and sometimes become the sole caretakers of children and elders during conflict situations'⁵ soared. More than 4,000 women lost their husbands, and hundreds of women were raped by parties in conflict⁶. Even today many internally displaced people, many of whom are women, have not been able

to return home, and thousands are facing mental distress and physical torture. Some 50,356 people were displaced by the end of 2004, the greatest number in Mid-Western Development Region. More than 13,347 people had been killed by the end of 2006, approximately 8 per cent of them women and more than 3 per cent children. Even after the signing of the CPA in November 2006, another 551 people were killed in 2007 and 541 in 2008. Of the total people killed during the period of Maoist insurgency, 10,297 were men and 1,013 were women while the gender of 2,034 people were not verified, as they were killed during the clashes and were buried or taken by the conflicting parties in an attempt to hide the identity of the deceased. Of the total 1,013 women killed during the period, 193 were killed by the Maoist while others were killed at the hands of state security forces. Similarly, of the 84,969 people abducted, 2,087 were women; while the identity of 69,403 people abducted during the period was not known⁷. To date, there is no accountability for the thousands of crimes of sexual violence and other appalling human rights abuses committed during the insurgency. Splinter groups arising across the nation are worsening the situation. One such impact is on women in the Tarai region, where hundreds are reportedly facing rape and abuse.

Nevertheless, changing roles of women's empowerment fast-forwarded by conflict in forms such as involvement in non-traditional roles, increased decision making powers, and inclusion in the Nepal Army cannot be overlooked. Conflict may be denoted to have indirectly increased women's rights. The provision of 33 per cent quota for women in the Constituent Assembly (CA) 2008, significantly overcame the dismally low female participation in past parliamentary representations. Changes in gender roles and growing acceptance by Nepali men is evidenced by increasing number of migrating women workers, more vocal demands for women's rights and legal provisions guaranteeing inheritance rights and others. But there is significant absence of women in the peace process. As a result, gender-based persecution and violence have been rendered trivial and invisible in peace agreements; they have not been taken into account either in the interpretation or implementation of agreements.

C. Relevant Policies

Nepal is party to 16 international human rights instruments, including the International Covenant on Economics, Social and Cultural Rights, 1996, the International Covenant on Civil and Political Rights, 1966, the Second Optional Protocol to the International Covenant on Civil and Political Rights, 1989, the Convention Against Torture and other Cruel, Inhuman or

5 Deuba, A. R. (2005) Changing Roles of Nepali Women Due to Ongoing Conflict and Its Impact - A National Study. SAMANATA-Institute for Social and Gender Equality. Kathmandu.

6 (2009) Keeping the Beijing Commitment Alive...Nepal NGO Report on Beijing +15. National Network for Beijing Review, Nepal. NNBN/SAATHI.

7 www.inseconline.org

Degrading Treatment or Punishment, 1984 and the Convention on the Elimination of all forms of Discrimination Against Women, 1979.

Relevant policies which have recently come up are:

- The Comprehensive Peace Accord (CPA) includes a prohibitory provision on Gender Based Violence (GBV) to be abided by both parties to the agreement.
- The Interim Constitution of Nepal, 2007 prohibits physical, mental or any other form of Violence against Women. Women's reproductive rights are recognized as fundamental.
- Gender Equality Act, passed in 2006, repeals and amends 56 discriminatory provisions of various previous Acts and incorporates provisions to ensure women's rights.
- Human Trafficking Act, 2007 extends definition of trafficking to include offense of transportation for trafficking purposes. The new Act affords support and care for victims.
- The Supreme Court issued orders at prohibiting malpractices that contribute to GBV.
- The GoN's Three Year Interim Plan (2007-2010) identifies the end of GBV as key objective.
- The Legislature Parliament of Nepal passed the Domestic Violence (Crime and Punishment) Bill (On 5 May, 2009). It defines physical, mental, sexual, financial as well as behavioral violence as domestic violence.
- The GoN has formulated a national response for prevention of GBV with special focus on its prevention and the protection of women and girls. It declared 2010 as the Year to End GBV. The 2010 Action Plan against GBV, focusing on prosecution, protection and prevention, highlights the need for a special commission to investigate cases of violence against women. A free hot-line number (1111), directly connecting to the Prime Minister's Office is available.
- Nepal is in the process of formulating a National Action Plan (NAP) on UNSCR 1325 and 1820, the first resolution on women, peace and security.
- Tenth Five Year Plan includes gender and human rights as crosscutting sectoral issues. Gender Focal Points are established in sectoral ministries and Task Forces at central and district levels to check trafficking.
- Adoption of policy representation of 33 percent women in government and political sectors.

II. Data Presentation and Analysis

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In spite of noteworthy policies and provisions which have come about, factual data with regards to their implementation present a different picture. Effective implementation of policies has always remained a concern plaguing the country in diverse sectors, and more so in relation to women's rights and empowerment issues, as well as peace and security issues.

A. Participation

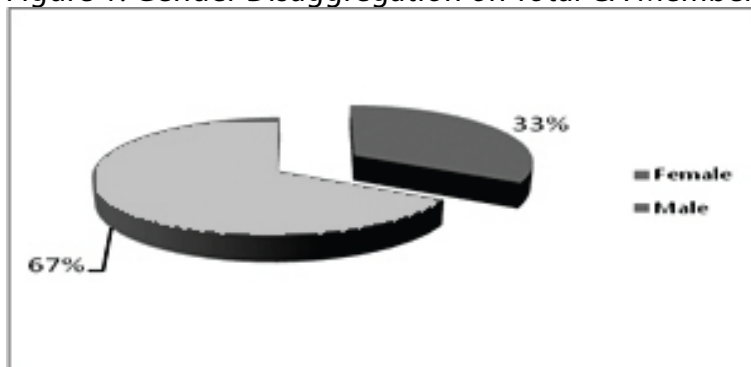
Indicator 1 - Index of women's participation in governance (% women in senior positions in cabinet/council of ministers, parliament, local governance)

Legislative and Parliamentary Level

A major component of the CPA is the political and socio-economic transformation which

demands state restructuring in an “inclusive, democratic, and forward looking” manner for ending all forms of discriminations. It also envisaged an inclusive, democratic and progressive state restructuring wherein the needs and concerns of women, amongst others, are taken into account. These all led to the promulgation of an Interim.

Figure 1: Gender Disaggregation on Total CA Members

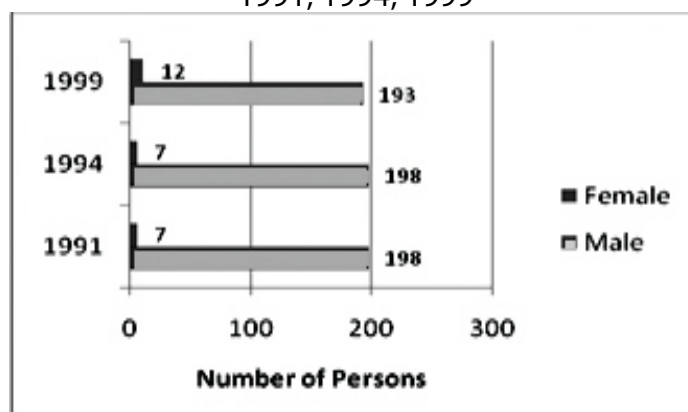


Source: <http://www.can.gov.np/>

Constitution

To cover the transition period prior to the CA's drafting of the new Constitution - wherein the representation of a large number of women CA members has come about (Figure 1). The 33 percent membership in the CA is a landmark gain. This is particularly true when considering the dismally low women representation in the House of Representatives during earlier years (Figure 2). But women CA members' ability to voice women's concerns remains to be seen. With governance within political parties still highly patriarchal, the increased number may be a more 'politically correct' figure ensuing from women's lobbying and advocacy rather than a deep-rooted will to realize changes. Nevertheless, it must be viewed as an opportunity and women CA members' capacity building must be addressed for ascertaining their understanding of their roles and responsibilities as well as the ability to participate productively for the overall benefit of Nepali women.

Figure 2: Gender Disaggregated Representation in the House of Representatives, Nepal, 1991, 1994, 1999



Source: Nepal Human Development Report 2009. State Transformation and Human Development. UNDP. Kathmandu, Nepal

Changes, though still very minor, are becoming visible in women's participation in governance, in contrast to the past periods, as indicated by Tables 1 and 2. The percentage of women in senior positions in cabinet/council of Ministers, Parliament and local governance has increased in the post CPA period. It is heartening to note crucial positions such as the Defense Ministry and Deputy Prime Ministerial positions have been allotted to women – positions traditionally viewed as male domains. Nevertheless the holistic picture continues to remain bleak. Furthermore, the actual participation and decision-making power of these representatives

also remain ambiguous due to stringent party decision making powers.

Table 1: Total Number of Council of Ministers

sn.	Total Council of Ministers	Male	Female	Percentage of Female
1.	2010			
	43	38	5 Defense Minister -1 Deputy PM- 1 State Minister-1 Assistant Ministers- 2	11.62% Source: http://www.can.gov.np/
2.	September 1999			
	32	31	1	3.125% Source: http://www.asmita.org.np/storiesfeature/brief_about_nepal.htm

Involvement of women at legislative level is more prevalent compared to the other sectors. Their numbers are visible in various CA and Legislative Parliament Committees (Table 2). However, once again their ability for qualitative participation demands ongoing in-depth review and analysis.

Table 2: Women's Representation in Committees

sn.	Committee Type	Total	Female	Female %
A.	Constituent Assembly Committees			
1.	Constituent Committee	63	15	23.81%
2.	Thematic Committee	431	125	29%
B.	Legislative Parliament Committees			
1.	Procedural Committee	115	41	35.65%
2.	Legislative Committee	74	23	31.08%
3.	Thematic Committee	362	100	27.62%
4.	Special Committee	145	39	26.9%

Source: <http://www.can.gov.np/> August 2010

Bureaucratic Level

The civil service currently holds 77,326 personnel of which women consist only 11.33% of the total. At local governance level, there is an almost total absence of women representation. Within the Ministry of General Administration, the 75 Chief District Offices have no women presence. Circumstances are no better in Local Development Offices – reflective of limited gender mainstreaming efforts within the government arena, and particularly at decision making level.

Table 3: Female Representation at Senior Government Administration Level

Ministry of General Administration	Male	Female	Percentage of Female
Chief District Officers (CDO):	75	0	0%
Local Development Officers (LDO):	75	1	1.33%

Source: Ministry of General Administration (August 2010)

In January 2009 the Women's Caucus was established within the Parliament. It is an informal mechanism established to promote gender sensitive policies and legislations. The Regulation of Women's Caucus was passed in 2009, with a working and an executive committee established under it. The latter was further divided into three sub committees, namely: 1) Violence Against Women, 2) Constitutional Committee, and 3) Legislative Parliament. But the Women's Caucus faces institutional challenges; despite office spaces provided within the legislative parliament,

the office is yet to be equipped with necessary logistics such as computers or internet access⁸. The political will to guarantee women's rights remains dubious.

Political Parties

The political will of political parties remains vastly different from the speeches they render. The low representation of women despite the First Past the Post (FPTP)⁹ Electoral System of the Constituent Assembly evidences the patriarchal values that discriminate against women. Within all political parties, the number of women and their positions within party governance, especially at executive, policy and other decision making levels, is negligible. The ability of those present in such positions to make major decisions is also open to discussion and demands monitoring and analysis.

Indicator 2 - Percentage of women in peace negotiating teams

The political will of political parties remains vastly different from the speeches they render. The low representation of women despite the First Past the Post (FPTP) Electoral System of the Constituent Assembly evidences the patriarchal values that discriminate against women.

A core area of focus of the UNSCR 1325 is representation and participation of women in peace negotiations. Over the years, a number of peace negotiations have taken place (Annex 1: Key Building Blocks of Peace Process in Nepal), both between conflicting parties as well as among various political parties. Nonetheless, women's representation and participation has remained negligible during all these instances. With the exception of Ms. Anuradha Koirala, the then Minister who was a member of the Peace Negotiating team during the cease fire between the government and the Maoists (January 2nd, 2003), women have remained starkly absent in subsequent peace negotiations¹⁰. Women's participation during this instance was only 11.11%, as Ms. Koirala was the only woman amongst the total nine members. Under such circumstances, adequate representation of women's concerns is debatable. A key concern is addressing issues pertaining to women's rights, need for participation and protection from conflict induced impacts, particularly during the current transition phase when they are not even voiced.

Indicator 3 - Index of women's participation in the justice and security sector (percentage of women in military, police, judiciary, at all levels)

Judiciary Sector

The judiciary system of the GoN depicts a gloomy scenario. The national upheaval and demands for women's equal representation has not stimulated relevant changes in this predominantly

⁸ (2009) Keeping the Beijing Commitment Alive...Nepal NGO Report on Beijing +15. National Network for Beijing Review, Nepal. NNBN/SAATHI.

⁹ Two kinds of electoral systems were adopted for the Constituent Assembly election: a. The system in which the one leading in the vote count is elected (First Past the Post System- (FPTP): One Member One constituency principle is followed in the First Past the Post System (FPTP). There could be a number of candidates in any election, conducted for any position. But a voter is allowed to cast vote in favor of only one candidate. One, who leads with maximum number of votes, is declared winner.

b. Proportional electoral process: A proportional election is the one where voting takes place for political parties, considering the entire nation a single election constituency. The winning candidate is determined on the basis of the maximum number of votes received by the parties. Such a system is known as proportionate electoral system. For this system, the political parties must submit a closed list of their election candidates to the Election Commission. The listed candidates are declared winner, according to the number of votes earned by political parties in the election.

¹⁰ Source: www.peace.gov.np

male sector. Insignificant representation of women at decision making levels (Table 4) raises concerns about the ability of the judiciary system to understand and address the needs and rights of women, particularly those affected by conflict.

Table 4: Participation of Women within Judiciary Decision Making Level

sn.	Court	Position	Female	Male	Remarks
1.	Supreme Court	Chief Justice	0	1	Women never been appointed
		Judge	1	15	6.66% female representation
2.	Appellate Court	Chief Judge	0	10	
		Judges	4	90	4.25% female representation
3.	District Court	Judge	1	129	0.76% female representation
4.	Special Court		0	3	Designated for Appellate court
5.	Attorney General Office	Attorney General	0	1	Women never been appointed
		Deputy Attorney General	0	4	
		Joint Attorney General	0	27	
		Deputy Attorney	0	91	
		District Attorney	6	119	4.8% female representation

Source: Administration Department of each Court and Office of the Attorney General (August 2010)

Security Sector

Women's participation within the security sector remains significantly low. It is even lower at the decision making level, and raises concerns about their ability to raise voice on women's issues and needs in these sectors.

Table 5: Participation Women within Security Sectors

sn.	Security Sector	Total Number	Total Officers	Total Male Officers	Total Female Officers
1.	Nepal Army	90,226 (Male: 89,156; Female: 1,070, 1.2% representation of women in total army strength)	3785	3545	240 (6.34%)
2.	Nepal Police	60,076 (Male: 56,622; Female: 3454 - 5.74%)	1123	1083	40 (3.56%)
3.	Armed Police	31,265 (Male: 30,276; Female: 989 - 3.16%)	1104	1088	16 (1.44%)

www.nepalarmy.mil.np/wia.php, www.nepalarmy.mil.np/inclusiveness.php

Source: Army Headquarter, Armed Police Force Headquarter, Human Resource Development Department, Police Headquarter.

Indicator 4 - Percentage of women in peacekeeping missions, disaggregated at all levels

Nepal's security forces have been successfully participating in UN Peace Keeping Forces since the last couple of decades. The UN Department of Peace Keeping Operations report (as of 30 June, 2010) indicates a total of 5,148 Nepalis being deployed as police, military experts on mission and troops. But a gender perspective indicates only an insignificant 2.6% are women (See Annex 2 for detailed breakdown). The Nepal Army has also been deploying women in these missions. But their efforts to increase women deployment remain low as indicated by the data in Table 6. The Nepal Armed Police Force fares no better. Comparatively, the Nepal Police has, in recent years, seen more women being deployed. Yet even these numbers must

be qualified in terms of the level of junior and senior police officers who have been deployed, and the level of authority and power they have access to.

Table 6: UN Peace Keeping Missions Deployed by Nepal

sn.	Security Force	Period	Total	Female	Male	Female %	
1.	Nepal Army	Peace Keeping Force members since 1958	76,489	197	76292	0.25%	
2.	Nepal Police	Total no. in 2007	401	11	390	2.74%	
		Total no. in 2008	761	49	712	6.42%	
		Total no. in 2009	597	42	555	7.03%	
3.	Nepal Armed Police Force	Total no. in 2007	512	4	508	0.78%	
		Total no. in 2008	544	6	538	1.1%	
		Total no. in 2009	590	3	587	0.5%	New Policy APF: 9 Female out of 100 must be included in every training.

Source: Army Headquarter, Armed Police Force Headquarter, Human Resource Development Department, Police Headquarter.

Indicator 5 - Number and percentage of women participating in each type of constitutional or legislative review

The demand for increased women and marginalized groups representation following the CPA, 2006 compelled each political party to increase the presence of women in the electoral system. The FPTP System which involved percentage representation based on the number of votes won in the elections has led to a 33% women representation in the CA, which is currently drafting the new constitution. Women have been represented in various legislative parliamentary committees as indicated by Table 2. However, the voice of a large majority of these women is yet to be substantially heard, as many possess neither the experience nor the capacity to put forth their views and ideas, especially from the women's perspectives.

Indicator 6 - Percentage of CSOs in Task Forces on SCR 1325 and 1820 (out of total TF members)

In an effort to ensure representation of women's concerns relating to conflict and transition, the GoN formed a High Level Steering Committee to implement UNSCR 1325 in the context of expanding women's roles in the peace process and the subsequent implementation of UNSCR 1820. Various like-minded Ministries are member of this steering committee which is chaired by the Foreign Minister and co-chaired by the Minister for Peace and Reconstruction. The Committee comprises of six women representatives from women's organizations. The total representation of women in this committee is 44%¹¹, while the total percentage of civil society organizations (CSOs) in the committee is 33.3%.

B. Prevention and protection

UNSCR 1325 marked the first time the Security Council addressed the disproportionate and unique impact of armed conflict on women; it recognized the under-valued and under-utilized contributions women made to conflict prevention, peacekeeping, conflict resolution and peace-building.

Indicator 7 - Number of SGBV cases reported, percentage investigated, referred, prosecuted and penalized

The GoN has recently taken positive steps to address GBV. Commitments are visible through examples such as the Domestic Violence Bill passed in 2009 and the commitments to establish shelters for survivors of violence across the country. However, nationwide data on conflict related sexual and gender based violence (SGBV) are limited. The delay in the establishment of the Truth and Reconciliation Commission (TRC) and its inability to give due attention to SGBV faced by women may ultimately result in neglect of the issue. Nationwide data of cases investigated, referred, prosecuted and penalized could not be collected for this report either. A few researches and media monitoring reports have highlighted these issues, but more from the standpoint of particular districts or specific years. One CSO report highlights that 'during the period of 2001 to March 2009, a total of 44 cases of rape, including of minors have been reported to Advocacy Forum. The categories of perpetrators can be identified as follows: government security forces [Nepal Army, Armed Police Force and Nepal police], members of the Maoist party and unidentified groups¹².' According to the Human Rights Report of INSEC, some 200 women were raped in 2008 in the Terai region alone¹³. A UNFPA 2008 study in Surkhet and Dang Districts of Nepal, two areas highly affected by conflict, revealed that of the total 417 women interviewed, "over 80 per cent of women included in the survey reported experiencing domestic violence from their husbands, and 74 per cent of those have been forced to participate in non-consensual sex acts multiple times within the past two years. In addition, 9 per cent of women reported incidents of non-consensual sex, and incidents of all types of sexual violence are most frequently perpetrated by neighbors or community members within the survivor's own home¹⁴." The current transitional period does not indicate significant improvement in women's security situation, and the prevalent impunity and weakness in implementing laws may be aggravating it.

Indicator 8 - Number and quality of gender-responsive laws and policies

The GoN has been addressing the prevention and protection concerns through a number of measures, primarily legal, educational and economic. Analyses of documents reveal that various gender-responsive laws and policies (See Annex 3 for details) have been promoted to address women's rights. These have been positively welcomed by the Nepali women's movement and the society as a whole. One of the highlights is that women's issues, any cases of GBV and other issues registered by women for justice must be speedily dealt with in courts. However, women's knowledge of these laws and access to justice using these provisions remain undocumented. Implementation of court decisions also remains a major hurdle. Furthermore, rigorous measures need to be undertaken to ensure many of these laws do not remain in name only. These *de jure* are *de facto*.

The current transitional period does not indicate significant improvement in women's security situation, and the prevalent impunity and weakness in implementing laws may be aggravating it.

12 www.advocacyforum.org/departments/human-rights-documentation-and-monitoring-department/sexual-violence.php

13 NNBN/SAATHI (2009) Keeping the Beijing Commitment Alive...Nepal NGO Report on Beijing+15.

14 UNFPA (2008) Situational Analysis of Gender-Based Violence in Surkhet and Dang District, Nepal. IRC/SAATHI/WHR. Kathmandu, Nepal.

Table 7: Gender Sensitive Provisions

sn.	Type of Provision	No. of Provisions
	Provision under Interim Constitution	11
	Civil Code 2019	15
	Other Gender responsive laws and policies	22

Source: Collection of laws and policies to address women's rights- 2009

Indicator 9 - Number and nature of provisions/recommendations in the TRC and other transitional justice reports on women's rights

Truth and Reconciliation Commission: The Ministry of Peace and Reconstruction (MoPR) has presented the Bill on the Truth and Reconciliation Commission (TRC) to the CA and is presently pending consideration by the Assembly. It is expected that once the political situation is stable, the Bill will be passed with high priority. The Bill contains provisions for ensuring transitional justice through promotion of reconciliation, justice, healing and reparation on a nation-wide level. The Bill's definition of 'violation of human rights' includes rape and sexual violence, while Article 18 Protection of Witness states special provision will be made for ensuring women and children's honor and security. Article 25 also states no amnesty provision for rape crimes. However, a number of apprehensions have arisen regarding the Bill. One major concern is that provisions would grant amnesty to perpetrators of gross human rights violations and violations of international humanitarian law¹⁵.

Indicator 10 - Extent to which gender and peace education are integrated in the curriculum of formal and informal education

Prevention through Education: Gender Studies has become integrated as a Masters Degree since 2009, while the Padma Kanya Campus (a women only college) has been providing Women Studies since several years back. But 'mainstreaming of gender and equity concerns in the whole education sector is limited'.¹⁶ More recently some institutes such as the Kathmandu University have incorporated security management as part of the curricula at the post graduate level. But provision of gender and peace education as a core component of formal and informal education system is yet to take place. Although peace education takes place through various non governmental organization (NGO) interventions, prioritization by the Ministry of Education to mainstream the integrated issue and intensive advocacy by the NGO sector is essential to ensure clarity on the subject matter, their inter-linkages and the value of imparting the knowledge from a young age onwards. Focusing on graduates and post graduate students alone is inadequate.

Table 8: Addressing SCR 1325 within the Education System

sn.	Type of Education	Institute	Initiative	Remarks
1.	Formal/Non formal	GoN Textbooks	Gender and peace education partly incorporated from curricula to text books in 75 districts	Source not available. Details not available
2.	Formal	Kathmandu University	Security management has been incorporated within the curricula of school management at the post graduate level; however not the gender and peace subject.	Source: KU Administration office; 0111399
3.	Formal	Purbanchal University	No gender and peace course included	Source: Rina Hada, VC Office, Biratnagar

15 Nepal Human Development Report 2009. State Transformation and Human Development. Kathmandu, Nepal.

16 Acharya, S. (2007) Social Inclusion: Gender and Equity in Education SWAps, Nepal Case Study. Kathmandu: UNICEF ROSA.

Indicator 11 - Percentage of women (versus men) who receive economic packages in conflict resolution and reconstruction processes

The GoN has been limited to offering financial compensation to conflict victims so they may develop or re-develop sustainable livelihoods. Upon approval by the cabinet in 2007, the MoPR began offering financial relief and assistance following specified Norms and Guidelines. The GoN brought out the Procedure¹⁷ which specifies amounts that conflict-affected victims are to be compensated with, such as NRs. 100,000.00 for the displaced and family of the dead, compensation to the handicapped depending on the level of injury, etc. Yet even within these amounts, women's specific needs are missing. There is also no data available on the use or abuse of compensation, or the current status of women victims who received support.

Table 9: Conflict Affected Women Recipients of Economic Packages

sn.	Type of family/property loss faced by women	Number of women according to loss of family/ property	Female Recipients of Economic Packages	Men Recipients of Economic Packages in %
1.	Killed (family members)	10,669	9000 (84.35%)	16.65%
2.	Disappeared "	1,027	117 (11.39%)	88.61%
3.	Handicapped "	1157	76 (6.56%)	93.44%
5.	Abducted "	221	4 (1.8%)	98.2%
4.	Property Loss	1398	131 (9.37%)	80.63%

Source: Conflict affected people and infrastructure record collection task force, Babar Mahal (August 2010)

C. Promotion of a gender perspective

Despite evident gaps in prevention, protection and participation initiatives, efforts towards promoting gender perspective are more prevalent. Gender issues have been incorporated at various points since the beginning of the transition period, though it is not the case in every sector.

Indicator 12 - Detailed breakdown of gender issues addressed in peace agreements

Since women were not represented in peace negotiations, it is no surprise that women's specific issues and needs were not addressed in peace agreements. There was a mention of women in the 2006 CPA, but only as part of the problem to be addressed. Additionally, there was a general mention of the need to protect women's rights and end sexual violence. Various government and non government agencies are working to implement UNSCR 1325 and 1820 but women's concerns such as SGBV are not being addressed, nor are women being involved in peace initiatives at grassroots level. Although the Local Peace Committees have been established across the nation and included women representation, the Committees are not working to promote gender concerns or address protection from and prevention of SGBV. There is strong need to include special packages for SGBV victims in the relief and reconciliation efforts, incorporate violence against women within the education curriculum from the primary level, provide skill-based training and employment opportunities for conflict-affected women and ensure participation of directly conflict-affected women at all levels. Specific mention of 'conflict-affected women' rather than conflict affected is necessary in GoN documents also.

17 Nagarik Rahat, Chhyatipurti Tatha Aarthik Sahayata Sambandhi Karyavidhi 2066 (Procedures on Support, Compensation and Economic support to the People, 2010)

Table 10: Gender Concerns within Peace Agreements between the GoN and the Maoists

sn.	Agreements	Reference of Gender Issues	Remarks
1.	8 Point Agreement signed on 16th June 2006	No mention of gender issues or sexual violence during conflict and post conflict situation.	No women present in negotiation teams of GoN and Maoists
2.	12 Point Agreement - 23rd November 2005		No women present in negotiation teams of GoN and Maoists
3.	25 Point Agreement on Ceasefire Code of Conduct signed on 26th May 2006		No women present in negotiation teams of GoN and Maoists
4.	Comprehensive Peace Accord signed on 21st November 2006	Point No. 3.5 states the need to “End the existing centralized and unitary state system and restructure it into an inclusive, democratic progressive system to address various problems including that of women, Dalits, indigenous community, Madhesis, oppressed, ignored and minority communities, backward regions by ending prevailing class, ethnic, linguistic, gender, cultural, religious and regional discrimination.”	No women present in negotiation teams of GoN and Maoists
		Point No. 7.6.1 states “Both parties completely agree on the need to specially protect the rights of women and children and the need to stop all forms of sexual exploitation and other forms of mis-behavior on women and child labor and other violent act against children and not to include children below the age of 18 in any form of military force. The children who have already been affected shall be rescued immediately and adequate provisions shall be made for their rehabilitation.”	No women present in negotiation teams of GoN and Maoists

Indicator 13 - Number and percentage of pre-deployment and post-deployment programs for military and police incorporating SCR 1325, SCR 1820, international human rights instruments and international humanitarian law

Efforts towards promoting gender perspective are apparent within security forces. The Nepal Army has in particular been focusing on orientation and training packages for its personnel in the last four years. Both UNSCR 1325 and 1820 have been included in these trainings, and such initiatives must be positively acknowledged. But it is necessary to look beyond training and orientations and assess the political will of the Nepal Army to put into practice all the trainings provided. The Nepal Army still faces criticism from Human Rights and CSOs over SGBV cases for inadequate prosecution of the guilty party.

Table 11: Efforts to Address UNSCR 1325 and 1820 within Security Forces

sn.	Institute	Type of training	Training Content
1.	Nepal Army	Special Package on UNSCR 1325 and 1820.	9000 army personnel trained during the last four years.
		UNSCR 1325 and 1820 incorporated in post deployment training.	
2.	Nepal Police	Pre-Deployment	
		36 Days training	Issues related to gender child protection, sexual exploitation, International human rights instruments and international humanitarian law. But no specific syllabus on UNSCR 1325 and 1820.
		Post Deployment	
		Briefing only	Overall issues mentioned above

Source: Training Directorate, Police Headquarter; Army Headquarter (August 2010)

Indicator 14 - Allocated and disbursed funding to CSOs (including women's groups) marked for women, peace and security projects and programs

Information on the funding allocated and disbursed to civil society groups, including women's groups, marked for women, peace and security projects and programs could not be collected due to lack of available data.

Indicator 15 - Allocated and disbursed funding to governments marked for women, peace and security projects and programs

The gender responsive budget was officially introduced in Nepal in Fiscal Year 2007/2008. Since then the government budget of all ministries, commissions and committees are categorized under directly gender responsive, indirectly gender responsive and neutral. Classification of the budget of the last three fiscal years is indicated in Table 12. Despite the increasing percentage, it remains very nominal and requires greater affirmative action. There is also need to monitor the actual process to ensure that the fund is being accessed by and used for its proper usage. The GoN has also been working to promote gender issues through various women, peace and security (WPS) programs and projects. Progress report of the Nepal Peace Trust Fund (NPTF)¹⁸ indicates it has thus far spent NRs. 3,846.19 million out of the NRs. 5,367.90 million total project cost (Annex 4: See details) on various projects such as temporary housing, drinking water, temporary cantonment construction, special health management program, special program for internally displaced people, voter education program for the CA elections, etc. However, the absence of gender/women specific project funded under the NTFP is notable. No data on funding for WPS programs and projects could be collected, the reason being that focus on women issues have remained limited.

Table 12: Gender Responsive Classification of National Budget¹⁹

sn.	GRB Classification	2007/08	2008/09	2009/10
1.	Directly Responsive	11.3	13.9	17.3
2.	Indirectly Responsive	33.2	35.4	36.4
3.	Neutral	55.5	50.6	46.3
4.	Overall	100.0	100.0	100.0

18 Source: Nepal Peace Trust Fund: Four Monthly Progress Report, September 2008 – January 2009

19 NNBN/SAATHI (2009) Keeping the Beijing Commitment Alive...Nepal NGO Report on Beijing+15. Kathmandu, Nepal.

Table 13: Budgetary Support towards Peace Concerns

sn.	Total Budget	Duration of Support	Remarks
1.	CHF 5,000,000.00	12, 2009 – 05, 2011	The NPTF was created in 2007 when a group of donors agreed to financially support GoN's efforts to implement the CPA commitments. However, this fund does not mention about women, peace and security. Donors for this Peace Fund are United Kingdom, Norway, Denmark, Finland, Switzerland, Germany and European Commission

Source: www.swiss-cooperation.admin.ch/nepal/en/Home/Nepal_Peace_Trust_Fund,_NPTF

By the submission of this report, Nepal is still in the process of developing a National Action Plan (NAP) on UNSCR 1325, which will be monitored by the Ministry of Peace and Reconciliation (MoPR). So far, the total budget that the MoPR received for the NAP development is NRs. 8,700,000.00 and it comes from multiple donors.

Indicator 16 - Percentage of women's representation as peace-builders and decision-makers in media content

The data collected for indicator 16 do not provide the exact information that the indicator calls for which is "Percentage of women's representation in political power & decision-making in media content." GNWP hopes to integrate this indicator again in the next phase of the project and focus on the portrayal of women and men in the media particularly in the coverage of armed conflict.

III. Conclusions and Recommendations

The formal conclusion of the armed conflict in 2006 brought about numerous agreements focusing on transformation and restructuring of the state and society to ensure equitable human development. A “New Nepal”, aimed at ending all forms of discriminations based on class, caste, ethnicity, language, gender, culture, religion and region, became the buzz word and expectations of the people rose to a high level. Citizens are now demanding for inclusion, participation, and autonomy which are equivalent to more freedoms, more choices and more options than they had before.

However, situations are aggravated by the current political instability, impunity and the disregard for law, reflective that ‘the peace process in Nepal is still a fragile one’²⁰. Under such circumstances interventions and initiatives for the participation, prevention and protection of women remain inadequate. Nepal has always been prone to come up with attractive policies, and been quick to ratify international conventions and treaties; implementation of these to realize changes has conversely remained major hurdles. A number of inclusive provisions after the CPA in Nepal have come about wherein the rights of women have specifically been mentioned. Whether it is the Interim Constitution 2007, the 33 percent quota for women in the CA or the provision of quotas for women and other excluded groups in the police or in the Civil Service there are no doubts about efforts to promote gender equality. But provisions alone will not ensure the rights of women nor will the creation of a federal structure²¹ as has been proven by examples around the world. The gamut of problems arises with regards to commitments towards issues highlighted by the conflict.

From a participatory perspective - with the exception of the CA where women’s participation is higher than in any other sector, though significantly lower than of men – women’s empowerment and participation generally continue to be viewed more from quantitative rather than qualitative indicators. Despite provisions for increase in numbers in several instances through quotas, women remain under represented. Affirmative actions and positive discriminations have increased but the overall participation of women in decision making and authoritative positions remain negligible. Data collected during preparation of this paper further highlight that initiatives for prevention and protection are even less addressed.

Taking into account provisions of the UNSCR 1325, it is surprising that the MOPR fails to address gender considerations with regard to relief and reparation. No proper consultations on the kind of reparations required for women have taken place, and there have been concerns that the TRC and Disappearance Commission will focus on reconciliation and may not provide due attention to punishing crimes against humanity and human rights violations, thereby further giving rise to impunity. Furthermore, the formation of Commissions has been stalled since the last several years, denying victims the right to justice. Women’s rights issues, especially with regard to protection, are being raised but not extensively discussed. The Local Peace Committees (LPCs) – district level bodies formed under MOPR – to

Despite provisions for increase in numbers in several instances through quotas, women remain under represented. Affirmative actions and positive discriminations have increased but the overall participation of women in decision making and authoritative positions remain negligible.

20 United nations General Secretary Ban Ki-Moon’s report to the Security Council, 2 January 2009.

21 (2009) Nepal Human Development Report 2009. State Transformation and Human Development. Kathmandu, Nepal.

prevent and resolve conflict involving local stakeholders also mandate 33 percent women representation. As of now LPCs have been formed in 68 districts. Although these committees are perceived to play a significant role in conflict transformation at district level, many lack capacity, authority and resources to effectively carry out their responsibilities. A number of these committees are also accused of being biased and influenced by individual political interests.

The prevalence of culture of silence, weak law, impunity and lack of data continues to deprive women from acquiring justice. Despite efforts to implement UNSCR 1325 and UNSCR 1820 - which all Member States must implement under article 25 of the UN Charter - through a number of training for government and non-government personnel, women have not been able to take advantage of these rights. Justice continues to remain out of bounds for women who faced SGBV during conflict, and a similar situation persists even now.

Budgetary constraints are another hurdle towards ensuring that provisions for promoting women's empowerment and participation are guaranteed. Despite recognition, gender based budgetary needs for UNSCR 1325 and UNSCR 1820 remain lacking, and subsequently gender disaggregated data, regular monitoring and evaluation of SGBVs and other relevant information are conspicuously lacking.

Notwithstanding numerous challenges and gaps that prevail for implementation of UNSCR 1325 in the current scenario, opportunities cannot be overlooked. Affirmative and positive actions for promoting women's rights have proven critical for creating gender sensitive policy environment and actions. Efforts for preparation of the National Plan of Action are ongoing and are targeted for the coming months. Changes for gender equality have been initiated at parliamentary, judiciary, legislative and bureaucratic and even within security forces. Programmatically, the Ministry of Women, Children and Social Welfare conducted gender assessment studies and gender budget audits. The Nepal Police established women's cells to investigate women and children issues in all 75 districts. Statistical information on gender related programs and women's contribution to household activities is also being recorded in the national accounts. But the pace of inclusion and change are slow as are the impacts. Interventions to implement UNSCR 1325 have also been taken up rather late. This is particularly evident in the manner gender concerns have not been addressed with regard to relief and reparation, and the formation of the TRC and Disappearance Commissions have been stalled for the last several years. The TRC Bill is still pending in the CA.

In light of the current state of affairs this monitoring report makes recommendations based on information and data collected from various sources. Some of these were reaffirmed by reports such as the Nepal NGO Report on Beijing +15.

Participation:

- Women's quality participation, representation and leadership in all state machineries must be ensured. Focus must be on substantive equality and equality in results rather than just parity in numbers. All peace negotiations and peace building, including structural conflict resolution processes should have at least 33 per cent women in committees.
- Gender and peace education, including packages on UNSCR 1325 and UNSCR 1820 must be incorporated within formal and informal education at various levels, to bring about disciplined children and ensure that national systems and laws are followed.
- Initiation of a "Shadow Constituent Assembly/Shadow Parliament" for women's equality and rights will further promote women's leadership.
- It is recommended that national organizations step up initiatives to monitor UNSCR 1325 and UNSCR 1820 indicators on a regular ongoing basis, rather than one-off initiatives.

International organizations' support is essential towards this end.

- UNSCR 1325 and UNSCR 1820 must be mainstreamed within all government and non-government interventions. With the exception of a few organizations, these issues do not fall within most organizations' agenda.

Prevention and Protection:

- A Gender Unit must be established in the MOPR to ensure the peace process includes gender consideration in all its initiatives targeting relief, reparation, reconstruction, addressing past violence during conflict and promotion of victims' rights. Segregated data on murders, kidnappings, tortures, abductions and all forms of SGBV relating to conflict need to be maintained.
- Ensure the security and protection of former women combatants and their children.
- Regular monitoring of UNSCR 1325 and UNSCR 1820 to ensure their proper implementation and for ending impunity.
- Develop, within the peace agreement, cases of women's rights violations for both conflict and post conflict period. The violence brought on by arms and its impacts on women must also be addressed.
- Promote adequate representation and participation of women at the decision making level within law enforcement mechanism such as judges, judicial administration, police, and public attorneys, Judicial Council, Bar Council and Bar Association.
- Promote women at decision making levels in the media sector. The media must be sensitized towards appropriate reporting of UNSCR 1325 and UNSCR 1820 concerns.
- CSOs should consistently work in partnership to advocate for access to justice by women and girls.

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V. Appendices

Annex 1

Key Building Blocks of Peace Process in Nepal²²

22 November 2005: 12-point understanding between seven political parties and Unified CPN (Maoists) to restore peace, resolve in a decade-long conflict.

18 May 2006: Proclamation of the House of Representatives that it assumes all the state powers until the formation of a new constitution.

25 May 2006: Code of Conduct for a ceasefire agreement between the Government of Nepal and the Unified CPN (Maoist) to translate the accord into lasting peace.

16 June 2006: 8-point agreement between senior political leaders of seven parties and Unified CPN (Maoist) to move the peace process forward.

9 August 2006: Letters by the government and Unified CPN (Maoist) to the United Nations requesting the cooperation in the peace process.

8 November 2006: Decisions of the Meeting of high-level leaders of the seven political parties and the Unified CPN (Maoist) on the governance of the country.

21 November 2006: Comprehensive Peace Accord between seven political parties and Unified CPN (Maoist) to end conflict.

8 December 2006: Agreement of Monitoring of the Management of Arms and Armies.

15 Jan 2007: Proclamation of Interim Constitution 2007.

23 December 2007: 23 point agreement between the seven political parties to reach a consensus on holding the CA election by mid-April 2008, among other steps towards consolidating peace.

²² (2009) Nepal Human Development Report 2009. State Transformation and Human Development. Kathmandu, Nepal.

Annex 2

Monthly Summary of Contributions (Police, Military Experts on Mission and Troops), as of 30 June 2010

UN Mission	Description	Male	Female	Total
MINURCAT	Experts on Mission	1	0	1
	Contingent Troop	622	13	635
MINURCAT Total				636
MINUSTAH	Individual Police	65	2	67
	Formed Police Units	128	12	140
	Contingent Troop	1,058	17	1075
MINUSTAH Total				1,282
MONUC	Experts on Mission	22	0	22
	Contingent Troop	1,014	11	1025
MONUC Total				1,047
UNAMA	Individual Police	1	0	1
UNAMA Total				1
UNAMI	Experts on Mission	1	0	1
UNAMI Total				1
UNAMID	Individual Police	241	14	255
	Formed Police Units	125	13	138
	Experts on Mission	21	0	21
	Contingent Troop	345	1	346
UNAMID Total				760
UNIFIL	Contingent Troop	1,009	12	1021
UNIFIL Total				1021
UNMIL	Individual Police	19	0	19
	Formed Police Units	236	4	240
	Experts on Mission	2	0	2
	Contingent Troop	18	0	18
UNMIL Total				279
UNMIS	Formed Police Units	42	3	45
	Experts on Mission	9	0	9
	Contingent Troop	7	0	7
UNMIS Total				61
UNMIT	Individual Police	50	2	52
	Experts on Mission	1	0	1
UNMIT Total				53
UNOCI	Experts on Mission	2	0	2
	Contingent Troop	1	0	1
UNOCI Total				3
UNTSO	Experts on Mission	4	0	4
UNTSO Total				4
Grand Total		5044	104	5,148

Source: Data from DPKO, as of 30 June 20-10

Annex 3

Under Interim Constitution

- 8. Citizenship at the commencement of the Constitution
- 13. Right to equality
- 18. Rights regarding employment and social security
- 20. Rights of women
- 21. Right to social justice
- 33. Responsibilities of the State
- 35. State policies
- 63. Formation of the Constituent Assembly
- 131. National Human Rights Commission
- 142. Registration required for securing recognition for the purpose of contesting elections as a political party
- 154. Formation of Commissions

Provisions under Muluki Ain (General Code 2019)

- Chapter 1 On Court Proceedings
- Chapter 12 On Husband and Wife
- Chapter 13 On Partition
- Chapter 14 On Women's Share and Property
- Chapter 16 On Bestiality
- Chapter 21 O Registration
- Chapter 10 On Homicide
- Chapter 13 On Intention of Sex
- Chapter 14 On Rape
- Chapter 15 On Incest
- Chapter 17 On Marriage
- Chapter 18 On Adultery
- Chapter 19 On Decency/Etiquette (Adal)

Human Trafficking and Transportation (Control) Act, 2064

Human Trafficking and Transportation (Control) Legislation, 2065

Domestic Violence (Crime and Punishment) Act, 2066-2009

CEDAW

CEDAW Optional Protocol

Citizenship Act, 2063 - 2006

Prisons Act, 2019

Evidence Act, 2031

Libel and slander Act, 2016

Birth, Death and Personal Incident Registration Act 2033

Labour Act 2048

Income Tax Act 2058

Military Act 2063 – 2006

National Women's Commission Act 2063

Foreign Employment Act 2064

Directory to Control sexual exploitation of working women such as dance restaurants 2065

Directory to Eradicate Chaupadi System 2064

Police Regulation 2049

Laingik samanata kayam garna kehi Nepal ain samsodhan garna baneko ain 2063

Punarabedan tatha jilla adalaat ka Nyayadhis haru ko parisramik subidha tatha sewa ka anya sart sambandhi ain 2048

Nijamati Sewa ain 2048

Sarkari Mudda Sambandhi ain 2049

Annex 4

Table 15: Status of funding of the Nepal Peace Trust Fund projects
(as of 15 Jan 2009) in NRs million

Projects	Total Project Cost	NPTF Expenses	Remarks
A1- Temporary Housing	106.00	106.00	
A2.1- Drinking Water	59.75	37.98	
A2.2- Electricity	140.75	140.75	
A2.3- Causeway	40.00	40.00	
A2.4-Physical Infrastructure	109.28	60.79	An additional 1.51 million was spent by GoN
A2.5- Telephone	4.00	0.50	
A3- Access Roads	502.64	309.51	
A4- Temporary Cantonment Infrastructure	138.26	144.44	An additional 6.19 million was spent by GoN
A5- Basic Needs	1655.97	1642.10	
A6- Cantonment Health Management Program	53.35	48.22	An additional 2.79 million was spent by GoN
A6-1 Cantonment Management Health Management Program Phase II	59.56	NA	Fund disbursed to IAs during first week of January 2009
A7 - Emergency Health Management Program	3.50	3.50	
B1- Special Program for IDPs	371.60	155.47	
C1- Voter Education	160.53	81.11	Implementation stopped and surplus used for next project
C2 – Election Officials and Employees Training	250.99	5.07	Implementation stopped and surplus used for next project
C1-2- Voter Education Program for the CA Election 2064	219.21	167.65	The disbursed amount is only the saving of Project C1- no additional disbursement was made
C2-2- Capacity Development of Election Officials and Support Staff for the Administration of CA Election, 2064	241.87	128.22	The disbursed amount is only the saving of Project C2- no additional disbursement was made
C3- Deployment of Polling Officials and Support Staff on CA Election Day	1,250.64	884.13	
Total	5,367.90	3,846.19	

Source: Nepal Peace Trust Fund: Four Monthly Progress Report, September 2008 – January 2009
Monitoring Plan