

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 earthquakes 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>.

Context

The earthquake damaged approximately 2,900 historical, cultural and religious monuments and heritage properties, including the seven World Heritage Sites located in the Kathmandu Valley (the Durbar Squares of Kathmandu, Patan and Bhaktapur, the Buddhist stupas of Swayambhu and Baudhanath and the Hindu temples of Pashupati and Changu Narayan).¹ A sum of USD 206 million was estimated to be required for heritage reconstruction. Donors and development partners pledged USD 4.4 billion in grants and loans at the International Conference on Nepal's Reconstruction in June 2015, including for heritage reconstruction.² Key development partners, particularly China, Germany, the United States, India, Japan and UNESCO, expressed their special interest in supporting reconstruction of the World Heritage Sites.³

Due to different approaches and priorities between international stakeholders, state agencies, and local authorities, heritage reconstruction became one of the most contested domains of the post-earthquake process in the Kathmandu Valley, especially in Bhaktapur Municipality.⁴ At the same time, reconstruction of heritage sites located outside the Kathmandu Valley was often overlooked or accorded lower priority. Overall, the definition of heritage, its authenticity and ownership became a widely debated issue throughout the reconstruction process. This brief is based upon research conducted in Bhaktapur, with comparative insight from our other field sites in Dhading and Sindhupalchowk.

Laws and Policies

The Government of Nepal's Department of Archaeology (DoA) developed Basic Guidelines on Conservation and Reconstruction of Heritages Damaged by Earthquake 2016⁵ under the mandates of UNESCO and national laws such as the Ancient Monuments Act 1956. Under these laws and guidelines, reconstruction of World Heritage Sites of the Kathmandu Valley began with financial support from national and international donors. Much later, the Procedure Related to Public Procurement of the Earthquake-Affected Structures (Second Amendment) 2019⁶ introduced by the NRA somewhat facilitated reconstruction of local heritage sites with budgets less than NPR 100 million (c. USD 83,300), including temples, monasteries and stupas, by communities with a recommendation from local governments. Nonetheless, the reconstruction of temples and monasteries in Dhading and Sindhupalchowk districts was completely neglected due to lack of funding and higher government priority placed on the reconstruction of private houses.

Having been criticised for neglecting local heritage, the NRA finally introduced the Procedure on Preservation, Restoration and Reconstruction of Gumba, Bihar and Stupas Damaged by the Earthquake in 2019,⁷ which not only categorised the damaged heritage structures in terms of archaeological importance and level of damage, but also specified reconstruction models and budget allocation. According to this policy, gumbas (monasteries), bihars

(monasteries) and stupas more than 100 years old with more than 2000 square feet plinth area were required to be rebuilt with approval from the DoA and direct involvement of the Central Level Project Implementation Unit (CLPIU). Local user committees could be responsible for the reconstruction of structures covering less than 2000 square feet plinth area, with 50 per cent of the total budget provided by the local government.

Contestation and Conflict over Authenticity and Priorities

UNESCO's Operational Guidelines for the Implementation of the World Heritage Convention 2019⁸ stipulate the importance of the authenticity and integrity of world heritage properties and their cultural values, in terms of form, design, material, function, and traditions as well as their management system. The guidelines clearly spell out that 'the reconstruction of archaeological remains or historic buildings is justifiable only in exceptional circumstances. Reconstruction is acceptable only on the basis of complete and detailed documentation and to no extent on conjecture'.⁹

Following the earthquake, the DoA was deployed to regulate reconstruction of World Heritage Sites in line with the UNESCO guidelines that Nepal had agreed upon at the time of being entered into the World Heritage Sites list. However, rifts between the local governments and the DoA developed, as local communities and institutions sought to rebuild World Heritage sites in ways that did not align with either UNESCO or DoA guidelines.

For example, Bhaktapur Municipality wanted to rebuild heritage structures in an earlier style dating to the Malla Period.¹⁰ The desire for the revival of Malla-era architecture, which signified a period of Newar political power, was a long-standing political agenda in Bhaktapur that predated the earthquake and was perceived as a means of resisting centralised state authority over Bhaktapur's autonomy.¹¹ Since the restoration of multi-party democracy in the 1990s when the Nepal Majdoor Kisan Party (NMKP) came to power in Bhaktapur, the party has promoted traditional Newari culture, history and architecture as a central element of Bhaktapur's identity through social, educational, and political awareness. This is also echoed in the municipality's slogan, *Purkhale Sirjeko Sampati: Hamro Kala ra Sanskriti* (Creation of Our Ancestors: Our Art and Our Culture). For all of

these reasons, the municipality saw reconstruction as a desirable opportunity to replace Rana-style structures destroyed by the earthquake with Malla architecture.¹²

The Heritage Sub-section under the Culture and Tourism Section within Bhaktapur Municipality is responsible for heritage conservation and reconstruction.¹³ After the 2015 earthquakes the 'Post-Earthquake Excavation and Preservation Committee', comprising members leaders of political parties, mostly from the NMKP, heritage experts, engineers from Khwopa Engineering College, municipality officials, and the Director General of the DoA was established in Bhaktapur Municipality.¹⁴ Contention began to emerge between the DoA and the Municipality about ownership of heritage within Bhaktapur Durbar Square. However, after the local elections in May 2017 and the establishment of new local governments, Bhaktapur Municipality and the DoA reached a common understanding on which structures were to be rebuilt and by whom.¹⁵ Nevertheless, debates continued amongst different actors over quality, originality and authenticity in the meaning of 'heritage'.

Over time, it became evident that the DoA and Bhaktapur Municipality preferred different approaches to reconstruction. As a government entity, the DoA was bound by national laws and policies, including the Public Procurement Act (2007),¹⁶ which clearly stipulates that any construction work should be tendered out and implemented through a contractor.¹⁷ In contrast, the Municipality worked through *amanat* (user committees) formed at the community level with representation of political party cadres, cultural and heritage experts, and social leaders. Bhaktapur Municipality preferred working with the user committees because they were perceived as reducing unnecessary costs, ensuring quality and transparency, and providing a greater sense of ownership. The contractor-led reconstruction implemented by the DoA was costly yet could also lead to a compromise in quality as contractors were known to use low-grade materials and seek opportunities for cost-cutting. Both modes of reconstruction proceeded simultaneously at different sites across the city. The NMKP therefore mobilised their cadres to oversee the DoA contractor-led heritage reconstruction work.¹⁸

Rejecting Foreign Aid

Bhaktapur Municipality gained notoriety for rejecting German aid for heritage reconstruction. According to an official from the Bhaktapur Municipality, the terms

of reference of the grant agreement stipulated that the reconstruction process would be led by a German group. Their main focus was on the Pujari Math Temple, but they were also interested in reconstructing the Vidyarthi Niketan School, Padma School and Sajha Secondary School. However, the municipality had a different vision, including relocating the schools, which had been built in an area known as *Unansaya Chok* (99 Courtyards),¹⁹ in order to revive the Malla Period structures that once stood in those locations. That was the main point of disagreement between the donor and the Municipality.

In addition, past experience of the controversial Bhaktapur Development Project (BDP) led by German agencies dating back to the early 1970s was another reason for the refusal of aid. During the BDP, local communities felt they were not adequately consulted, and that their cultural and historical identity was undermined.²⁰ The reconstruction of Chyasilin Mandap was controversial as the Germans replaced the four central wooden pillars with steel encased in concrete, which were linked to steel trusses in the ceiling. These issues contributed to Bhaktapur Municipality's resistance of German proposals for assistance after the 2015 earthquakes. Officials were concerned that accepting such aid might go against sentiments about historical Newar architectural design, which people perceived as being part of their cultural identity and hurt their self-respect by excluding them from decision-making about their own city.²¹

Heritage Codes in Private Housing Reconstruction

Bhaktapur Municipality implemented its heritage code for private house reconstruction to promote traditional Newar architectural designs within the core heritage area which consists the World Heritage Sites and other old settlement areas.²² According to the heritage code, homeowners are allowed to build to the maximum height of 35 feet, although houses adjacent to heritage sites must be shorter than the heritage structure. Similarly, homeowners were required to follow designs for traditional wooden doors and windows, and a *jhingati* tile roof with a 25 to 30-degree slope.²³

However, many people found the code unsuitable for their needs. They lacked the construction materials and financial resources to meet these criteria. Since their houses were built on small plots of land, they

built houses taller than stipulated by the code in order to accommodate more rooms for extended families. They also preferred a flat concrete roof to install a water tank. Therefore, despite the municipality's incentive of subsidising construction material, especially wood and bricks, many rebuilt houses did not fully comply with the heritage codes. Residents were concerned about preserving and promoting their traditional culture and house designs, but felt the codes required revisions to acknowledge contemporary needs. As a result, many rebuilt houses were not approved by the municipality and did not receive the Ghar Nirman Sampanna Praman Patra (House Construction Completion Certificate) as they were not fully compliant with the heritage code.²⁴

Recommendations

- Heritage reconstruction of both national and World Heritage Sites is a sensitive issue that requires deeper consultation, study and participation of local communities and stakeholders prior to reconstruction, before decision-making processes are initiated.
- The mandate of central authorities such as the DoA in relation to heritage sites should be clarified to all stakeholders to ensure effective coordination and cooperation with local, provincial and federal governments as well as related agencies and communities.
- Conflicts over jurisdiction between government agencies and levels of governance should be resolved through consultation and consensus among the concerned authorities, with the results communicated clearly to community members.
- Ensuring ownership for local governments and communities is crucial in heritage conservation and preservation as also prescribed by the Local Government Operations Act 2017.
- Local livelihoods and alternative economic opportunities should be taken into consideration while planning and implementing heritage reconstruction. Governments and other involved agencies should tailor efforts and resources to support local and indigenous knowledge by empowering and training local craftspeople and artisans.
- Local and national heritage sites within and outside of the Kathmandu Valley should be recognised equally and prioritised as much as World Heritage Sites.

- Heritage codes for private housing reconstruction should balance between the need to maintain

traditional building styles and the requirements of contemporary living standards.

Notes

- 1 National Planning Commission, Post-Disaster Needs Assessment Report (Kathmandu: National Planning Commission 2015). The actual number of damaged heritage sites verified by the NRA as of the end of 2021 was 2244. NRA, Reconstruction (Punarnirman in Nepali), December 2021, <http://www.nra.gov.np/uploads/docs/SUJmLFxfl1220103044757.pdf>.
- 2 'Home: Introduction', National Reconstruction Authority, accessed October 17, 2021, <http://nra.gov.np/nationalconference/index>.
- 3 Sewa Bhattarai, 'Clash of cultures in Bhaktapur,' Nepali Times, June 1, 2018, <https://www.nepalitimes.com/banner/clash-of-cultures-in-bhaktapur>.
- 4 'German development bank pulls out of heritage rebuilding project,' The Kathmandu Post, April 27, 2018, <https://kathmandupost.ekantipur.com/news/2018-04-27/german-development-bank-pulls-out-of-heritage-rebuilding-project.html>.
- 5 "Home: Publication: Basic Guidelines on Conservation and Reconstruction of Heritages Damaged by Earthquake, 2016," Department of Archaeology, accessed October 17, 2019, http://www.doa.gov.np/downloadfile/FINAL%20APPROVED_CONSERVATION%20GUIDELINES_2072_1467719101.pdf.
- 6 Bhukampa bata Prabhait Samrachanako Punarnirman Sambandhi Sarbajanik Kharid Karyabidhi, 2075 (Second Ammendment).
- 7 National Reconstruction Authority, Bhukampabata Prabhait Gumba, Bihar, Tatha Stupaharuko Samrakshan, Jirnodar Tatha Punarnirman Sambandhi Karyabidhi 2075 (Procedure on Preservation, Restoration and Reconstruction of Gumba, Bihar, and Stupas Damaged by the Earthquake in 2019), <http://www.clpiugmali.gov.np/public/upload/files/0203Bhukampiya%20Gumba%20Punarnirman%20Karyabidhi%202075.pdf>
- 8 'UNESCO: Culture: World Heritage Centre: About World Heritage: The Convention: Operational Guidelines 2019,' UNESCO, accessed November 7, 2019, <https://whc.unesco.org/en/guidelines/>.
- 9 Ibid, 27.
- 10 The Malla Period began in the early 13th century and lasted till 1768-69 when the Kathmandu Valley was invaded by the Gorkha king, Prithvi Narayan Shah. Bhaktapur was the last kingdom in the Valley to be conquered by Shah.
- 11 Gregory Grieve, *Rethorizing Religion in Nepal* (New York: Palgrave MacMillan, 2006).
- 12 The Rana period is usually designated as 1846-1951.
- 13 Bhaktapur Municipality, Organizational Chart, <https://bhaktapurmun.gov.np/en/node/5>.
- 14 KII no. 4, 23 September 2018, Bhaktapur; KII no. 39, 18 August 2019, Kathmandu
- 15 KII no. 39, 08 August 2019, Kathmandu
- 16 'Home: Documents: Prevailing Law: Statutes / Acts: The Public Procurement Act, 2063 (2007)', Nepal Law Commission, accessed December 15, 2019, <http://www.lawcommission.gov.np/en/archives/category/documents/prevailing-law/statutes-acts/the-public-procurement-act-2063-2007>.
- 17 KII no. 39, 08 August 2019, Kathmandu.
- 18 KII no. 9, 04 October 2018, Bhaktapur.
- 19 Before the 1934 earthquake, there were a total of 99 courtyards within the Royal Place, but the 1934 earthquake damaged most of them.
- 20 Grieve, *Rethorizing Religion*.
- 21 Sudarshan Raj Tiwari, 'Heritage in Danger,' The Kathmandu Post, November 12, 2016; Gregory Grieve, *Rethorizing Religion*.
- 22 Bhaktapur Municipality, Physical Infrastructure and Construction Criteria Related Bylaws 2060 (2004) (Bhaktapur: Bhaktapur Municipality, 2015).
- 23 Ibid.
- 24 Interview no. 31, 19 March 2018, Bhaktapur. According to the heritage code, the Municipality has the right to demolish non-compliant houses with homeowners having to bear the cost of demolition.

This policy brief summarises in-depth research findings available in publications from our collaborative research project 'Expertise, Labour and Mobility in Nepal's Post-Conflict, Post-Disaster Reconstruction: Construction, Law and Finance as Domains of Social Transformation', funded by the Social Sciences and Humanities Research Council of Canada (SSHRC), Partnership Development Grant Number 890-2016-0011 (<https://elmnr.arts.ubc.ca/publications>). Team members who contributed to this policy brief through research, writing, editing, coordination, or feedback throughout the partnership include: Omer Aijazi (University of British Columbia/UBC), Emily Amburgey (UBC), Jeevan Baniya (Social Science Baha/SSB) James Binks (UBC), Philippe Le Billon (UBC), Jonathan Eaton (UBC), Katherine Hacker (UBC), Dan Hirslund (University of Copenhagen), Kristian Cedervall Lauts (University of Copenhagen), Bina Limbu (SSB), Subin Mulmi (Nationality for All), Courtney Balaz-Munn (UBC), Bishnu Pandey (British Columbia Institute of Technology), Ramjee Parajulee (Capilano University), Dinesh Paudel (Appalachian State University), Katharine Rankin (University of Toronto), Nabin Rawal (Tribhuvan University), Sara Shneiderman (UBC), Ratna Shrestha (UBC), Prakash Chandra Subedi (SSB), Manoj Suji (SSB), Deepak Thapa (SSB) and Cameron David Warner (Aarhus University).

