

**Researching livelihoods and  
services affected by conflict**

# **Services and legitimacy:**

**Exploring everyday experiences of  
the state in Nepal's Terai region**

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Cover photo: Men cycle on an unfinished road, Gulariya, Nepal. Clare Cummings/2018. ODI (CC BY-NC-ND 2.0)

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# Preface



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The Secure Livelihoods Research Consortium (SLRC) aims to generate a stronger evidence base on state-building, service delivery and livelihood recovery in fragile and conflict-affected situations. It began in 2011 with funding from the UK's Department for International Development (DFID), Irish Aid and the European Commission (EC).

## Phase I: 2011 - 2017

SLRC's research can be separated into two phases. Our first phase was based on three research questions on state legitimacy, state capacity and livelihoods, developed over the course of an intensive one-year inception phase. Findings from the first phase of research were summarised in five synthesis reports produced in 2017 that draw out broad lessons for policy-makers, practitioners and researchers.

## Phase II: 2017 - 2019

Guided by our original research questions on state legitimacy, state capacity, and livelihoods, the second phase of SLRC answers the questions that still remain, under three themes:

- Theme 1: What are the underlying reasons for continued livelihood instability in post-conflict recovery situations?
- Theme 2: Through what mechanisms do perceptions, definitions and experiences translate into behaviours that aids or hinders post-conflict recovery?
- Theme 3: When does service delivery influence the negotiation of state legitimacy?

## Theme 3: Services and state legitimacy

This paper is one of three case studies conducted in Sri Lanka, Nepal, and Pakistan. Researchers from the

Sustainable Development Policy Institute (SDPI) in Pakistan, the Social Scientists Association (SSA) in Sri Lanka, Overseas Development Institute (ODI) in the UK and independent researchers collaborated to produce these case studies. The research lead was Aoife McCullough.

The case studies under this theme consider when and why services influence the negotiation of state legitimacy. Development donors and practitioners often assume that improving access to services will contribute to improving state legitimacy in post-conflict environments. Findings from SLRC I did not support this assumption; data from our panel survey indicated that access to, or improved satisfaction with basic services did not translate into improved perceptions of government. On the other hand, when people experienced a problem with a service, this translated into negative perceptions of government.

In SLRC II, we sought to understand why access to, or improved satisfaction with basic services had a limited effect on people's perception of government while experiencing problems with services had a much stronger effect. We broadened our research angle to examine processes of negotiating state legitimacy and located this negotiation within evolving political settlements. Using this broader approach, we sought to understand when certain aspects of service delivery become salient in the negotiation of state legitimacy. In addition to these country studies, a third round of the panel survey was carried out in 2018 in Uganda, Nepal and Pakistan. New questions were added to the survey that were designed to capture a range of opinions related to perceptions of state legitimacy. The findings from the survey are forthcoming.

For more information on who we are and what we do, visit: [www.securelivelihoods.org/about-slrc](http://www.securelivelihoods.org/about-slrc)



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# Acknowledgements



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# Executive summary



In recent years, Nepal has been anything but stable. Since 1996, the country has experienced ten years of civil war, violent protest over the ethnic and regional inequalities, the dissolution of elected local bodies and has transformed from a monarchy to a republic and from a unitary to a federal state. This study aims to better understand how the Nepali state's stability and legitimacy is challenged or strengthened. We explore the state's legitimacy in the Terai/Madhesh region of Nepal, using data from Bardiya in western Terai and Dhanusha in eastern Terai.

We question two current assumptions in international development about what makes a state legitimate:

- Providing services gives citizens an experience of the state, which in turn 'repairs' or constructs state-society relations, strengthening state legitimacy in the process.
- The state seeks to legitimise its power to all citizens.

In this study, (and corresponding case studies in Pakistan and Sri Lanka),<sup>1</sup> we understand legitimacy to be a constantly negotiated process between citizens and the state. Drawing on Beetham (1991), we argue that the state is legitimate only when it uses its power as citizens believe it should. Recognising that citizens are likely to have different expectations of how the state should use its power and will have different experiences of the state, we examine how the state may be legitimate for some citizens, but less or not at all legitimate for others. We use political settlements analysis to understand why the state may try to legitimise its power to one population group but use acts of co-option, exclusion or control to maintain its power over others.

## Findings

### How the state is imagined and experienced by Nepali citizens

- **To provide access to resources and rights.** Citizens expected the state to provide basic access to resources and rights. Most commonly, people thought the state should give them financial support, citizenship cards and land rights as well as access to government jobs, better roads and greater security.
- **To uphold values.** However, citizens in Nepal did not simply expect the state to be a technocratic supplier of material benefits, they also expected the state to uphold certain values – most notably fairness. This invariably meant that the state should provide them and their social group with as many opportunities and resources as it does for others. For example, people felt that government officers should not give priority to their personal friends in recruitment processes and should not channel public resources to people from their own caste or ethnic group.
- **Fairness is both a process and outcome of state functions.** Importantly, people discussed fairness of both the process and the outcome of state functions, and many felt unfairly treated despite the material benefits they had received. For example, nearly everyone interviewed in Bardiya said that the process for assessing which households needed the most support after a flood had been unfair even if their own household had received substantial help. There was a dominant narrative that 'the state is unfair' and this was voiced even if an individual had no personal bad experience of the state. Widely shared beliefs about how the state behaves were therefore influential in how a person judged it.

Another important concern was how the state recognises different cultural practices. Tharu people often expected the state to give space for Tharu customary law, while

<sup>1</sup> See McCullough and Toru (2019) 'Services and legitimacy: exploring everyday experiences of the state in Swat Valley, Pakistan' and Gunasekara et al. (2019), 'Services and legitimacy: exploring everyday experiences of the state in Sri Lanka'.

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some Muslim people wanted the state to formally recognise Muslim holidays. People judged the state according to how their social group was treated as well as their own personal experience. So, where people felt that the state did not respect their group's cultural or religious values, they were resentful of the state.

For the vast majority of people, the state's actions did not meet their expectations. Almost all respondents from all social groups criticised the state for prioritising other groups or individuals over themselves, whether in terms of allocating resources, granting rights or giving recognition to cultural practices.

### How state legitimacy is negotiated in Nepal

How does the state maintain its power in a region where most people expressed anger and frustration at unethical behaviour by politicians and bureaucrats? We found that the state employs different tactics for different groups, at different levels of government.

■ **Local level:** Locally, state actors can maintain their power by giving preferential treatment to their core supporters. By offering material benefits to particular groups or individuals and commissioning road-building in their constituency, the state may satisfy some at the expense of others. The population of the Terai is deeply divided along ethnic, caste and religious lines, so it is unsurprising that state does not fulfil the expectations of all groups. Tharu and Madheshi groups have demanded changes to federalism, the constitution, formal law and citizenship rights to achieve fairer ethnic representation. However, the state has mostly resisted these demands. Rather than trying to legitimise its power to Tharu and Madheshi groups, the state tends to respond to their acts of contestation with police force, losing legitimacy among the protesters but maintaining it among state supporters. Yet, the state's legitimacy in the Terai is an evolving process. On other occasions, the state has tried to maintain its legitimacy when aspects of its rule have been contested. For example, the Kamaiya<sup>2</sup> system was abolished, political leaders from minority groups have gained access to political power and a new Constitution recognising equal rights and secularism has been passed. In these

instances, the state acted in accordance with citizens' demands so its legitimacy among these groups may have increased.

■ **Regional and federal level:** While at the local level people consider the state to be unfair and immoral but seldom actively contest its power, at the regional and federal level, ethnic movements have been sufficiently powerful to threaten the political settlement. Here the state's legitimacy is sometimes negotiated with the use of violence, as in the protests by Madheshi groups, and on other occasions through political debate and campaigning, as in the protest against the Kamaiya system. We see the state using repression, co-option and legitimisation to manage instances of contestation. While the state may respond with force against protesters, it may also try to accommodate the demands of leaders and so concede some changes to the political settlement without losing power or legitimacy among its existing supporters.

### Conclusions

The study finds that the issues at the heart of state legitimacy in the Terai are how it provides material support, infrastructure and security, and how it respects cultural and religious practices. Citizens expect the state to perform these functions in a manner that is perceived as fair and from which they personally benefit. They also expect the state to accommodate their cultural or religious norms so that they feel that their identity is fairly represented. However, people often think that they and their identity group are being unfairly treated by the state, whether in terms of access to public resources, exclusion from formal rights or having their cultural practices excluded or disrespected. This perception of unfairness may be informed by personal experience, observation of others or popular local opinion.

We find that citizens are more likely to object to the state's authority when they feel their culture is not respected or they have unfair access to state resources. This may lead them to protest or live outside the state system. This value of fairness appears to cut across all state actions, underlining the importance of *how* a state is experienced more than the simple performance of a function. Following Beetham's (1991) model, we conclude that when the state fails to meet these

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<sup>2</sup> The Kamaiya system was a form of bonded labour common in the Terai where people, usually Tharus, worked for landowners in return for basic in-kind provisions such as food and shelter.

normative expectations of fair and respectful treatment, its legitimacy is weakened, regardless of whether an individual or group is objectively treated unfairly.

At the beginning of the study, we challenged two assumptions about how state legitimacy functions. We conclude that both are weak.

**Providing state services does not necessarily lead to stronger state legitimacy.** Citizens' experience of services such as education and health are not the main factors shaping perceptions of state legitimacy because the state is rarely the primary provider and people prioritise other concerns. The state's provision of services could still affect how citizens feel it treats them. Within this, the influential factors to consider would be how citizens can be confident that they and their social group are included fairly in the provision of a service and whether they attribute this sense of fairness to the state. However, for public services to support the state's legitimacy, they would at the very least have to meet the normative criteria of fairness. Even then, given the complex nature of how citizens may move from their experience of a service to their perception of the state, the potential for fair service delivery to strengthen state legitimacy is not guaranteed.

**The state does not attempt to be legitimate to all citizens.** Citizens often have competing and contradictory demands and the state cannot meet the demands of all groups. Instead, the state chooses to strengthen its legitimacy with some, while co-opting, neglecting or

repressing others in order to maintain its position of power within the political settlement.

### Implications for state legitimacy in federal Nepal

In federal Nepal, local government now has much greater responsibility to citizens in providing services and deciding how public funds are spent. The reintroduction of local elections also brings more importance to the state-citizen relationship at the local level. However, federalism may struggle to fulfil people's expectations of what local government can deliver for them. Social divisions in the Terai are stark and where groups have opposing interests, it may be impossible for local government to distribute resources, provide security, and create space for alternative cultural practices in a way in which each group feels fairly treated. There is a real risk that federalism will negatively affect people's perception of the state.

For state legitimacy to be strengthened in the Terai, the state must engage with citizens – whether through services or more salient issues such as employment and road-building – fairly and with respect. This concerns how citizens participate in and experience state functions but also how citizens' see their social identity represented in state discourse and actions. Only when these various messages, processes and experiences can convince citizens that they and their social identity group are valued and treated fairly by the state are the majority of citizens likely to approve its moral authority.



# 1 Introduction

In Nepal's recent history, the state's legitimacy has frequently been visibly contested through ten years of civil war, violent protest about ethnic and regional inequalities, the dissolution of elected local bodies, transformation from a monarchy to a republic and from a unitary to a federal state, as well as rapid and persistent changes to the ruling coalition. This is a complex political history in which to study state legitimacy. This study aims to deepen our understanding of how state legitimacy is established, challenged and maintained in the Terai<sup>3</sup>/Madhesh region of Nepal, and whether public services have a significant role to play in this. The study focuses on two locations: Bardiya in western Terai and Dhanusha in eastern Terai.



The Secure Livelihoods Research Consortium (SLRC) survey,<sup>4</sup> conducted in 2012 and 2015 in Nepal, revealed interesting patterns regarding the relationship between people's perception of government and their experience of public services. The more service problems a household experiences, the more negative their view of local and central government is likely to be (Sturge et al., 2017). Factors that were linked to improvements in people's perceptions of government concerned opportunities to participate in decision-making about a service and make complaints about a service (Nixon and Mallett, 2017). Having such opportunities to influence how a service is provided seems to have a stronger influence on perceptions of the government than the experience of actually using the service (Sturge et al., 2017). These findings accord with evidence from elsewhere that the process of providing services

<sup>3</sup> The southern plain of Nepal bordering with India is called as Terai/Madhesh. This research refers to the region as the Terai.

<sup>4</sup> The SLRC survey is a longitudinal panel survey on livelihoods, access to services and perceptions of the state and local governance. The first and second rounds of the survey were completed in 2012 and 2015 respectively. The third and final round of the survey was conducted in 2018. The SLRC has a developing body of work on the link between service delivery and state legitimacy.

is important for service-user satisfaction (Nixon and Mallett, 2017).

This follow-on study aims to better understand citizens' expectations of public services and of the state, how they judge the legitimacy of the state, and how this differs across population groups. Examining current perceptions and expectations of the state in Nepal is especially interesting in 2018 because the country is undergoing a significant restructuring of government, as it introduces a federal system and local elections.

This study aims to challenge and deepen donors' understanding of how the Nepali state is attempting to maintain its legitimacy or to strengthen its stability in other ways. By contributing empirical findings to the literature on state legitimacy, this research aims to help development actors to decide how much priority to give to the areas of support to Nepal regarding state stability. In particular, the research may inform how development actors' approach the provision of services and what they expect improvements to achieve in terms of state legitimacy. It also aims to provide advice on how Nepal's shift to federalism may affect state legitimacy. The findings are specific to the research sites in the Terai, but the conceptual framework and methodology may be transferable to studies of these concepts in other locations.

## 1.1 Structure of the paper

The paper begins with a short description of the research approach and an introduction to how we conceptualise state legitimacy in this research.

Section 1 offers a background to state legitimacy in Nepal, discussing relevant historical events in which the state's legitimacy was challenged and renegotiated.

Section 2 brings in findings from the research to explore how people in the Terai perceive the state, comparing their expectations of what the state should do with their experiences of what it actually does.

Section 3 discusses examples of how and why the state has tried to enforce or legitimise its power to different groups in the Terai, and how and why citizens' groups have responded differently. From this, we derive factors

which appear to be important for the state's current legitimacy in the Terai.

Section 4 reflects on what the findings may imply for how donors approach state-building in Nepal and how the on-going transition to federalism may affect the state's legitimacy in the Terai.

## 1.2 Research questions and approach

We address two assumptions through empirical research in Nepal:

First, this research examines the assumption that the state's provision of services gives citizens an experience of the state, which in turn 'repairs' or constructs state-society relations, strengthening state legitimacy in the process. We first explore people's ideas about the state. We seek to understand and compare what citizens consider to be its most important functions and values with how they experience and perceive these functions and values in everyday life.

Second, the research questions the assumption that the state seeks to legitimise its power to all citizens. We ask if and how state actors attempt to maintain their legitimacy in Bardiya in western Terai and Dhanusha in eastern Terai. What actions do state actors use to maintain their position of power and do these reflect the ideas of all or only some population groups?

We asked:

- 1 Are citizens' perceptions of the state's legitimacy informed by their satisfaction with public services?
- 2 What practices does the state use to legitimise its power with different groups?

We used primary qualitative and quantitative research methods to generate data on the situation in two case-study locations in the Terai: Gulariya municipality, Bardiya district and Chhireswarnath municipality, Dhanusha district. We used semi-structured interviews, a literature review and SLRC survey data analysis.

The ethnicity of the populations differs significantly between the two regions. There is a larger population of Tharu<sup>5</sup> people in western Terai, while Madheshi people dominate in the east. Ethnic identity has featured

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<sup>5</sup> Tharu is an indigenous (Janjati) group of Terai and Tharus typically demand a separate identity to the Madheshi caste groups.

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prominently in political movements, parties and protests in the Terai in recent years, so we expected ethnic differences between the two research sites to provide interesting findings for how state legitimacy is negotiated. Chhireswarnath municipality shares some similarities with Gulariya: both have urban and rural populations and a similar population size. Like Gulariya, Chhireswarnath is an urban centre for surrounding villages and both

cities are adjacent to a regional sub-metropolitan city. By studying two Terai cities with these similarities but differences in the composition of their population, we hoped to capture a broad understanding of the process of negotiating state legitimacy in the Terai.

Please see the Appendix for more detail on the methodology and research tools.

### **Box 1: SLRC survey findings related to governance and service provision in Nepal (2012 and 2015)**

*First*, the vast majority of respondents did not think that central or local government cares about their opinion. Similarly, very few thought that decisions taken by either the central or local government reflected their priorities. Perceptions of central government were worse than those of local government.

*Second*, few factors appear to consistently influence perceptions of central and local government, but the greater service-related problems a household experiences, the worse a respondent's perceptions of local and central government are likely to be. There is also some evidence that respondents are likely to hold more positive perceptions of local and central government if they (1) are aware of official complaints procedures regarding services, or (2) have recently been consulted about services. On the other hand, access to services – whether measured by journey times to facilities or by receipt of a transfer – does not have a clear or significant relationship with perceptions of government. This suggests that the way in which services are being provided (participatory, accountable etc.) is as important as what is provided.

*Third*, there appears to be no consistent statistical relationship between perceptions of government and a variety of factors one might expect to matter. For variables that we thought would have strong influences on perceptions of government, such as economic characteristics of households, we find no correlation.

Source: Upreti et al., 2014.

## 2 State legitimacy in the Terai

Before turning to the data analysis, we first consider the recent history of the Terai and how the state's authority has been contested by different social groups. In Nepal, and in the Terai specifically, there are vivid examples of deep grievances regarding how different ethnic, caste and class groups are represented in, and treated by, the state. In particular, this concerns how different population groups feel they are excluded from land ownership, the economy and state institutions, and how their cultural, citizenship, and language rights are formally defined but are realised informally or not at all. Primarily, this concerns the recent Maoist war, the response of the Tharu and the Madheshi political movements to the interim and 2015 Constitutions, and to the process of federalism and territorial restructuring.

### 2.1 Conceptualising state legitimacy

*This section summarises how we conceptualise state legitimacy. For a fuller discussion, please see the Appendix.*

In international development, legitimacy is commonly understood in terms of 'sources', for example performance-based legitimacy, process-based legitimacy or traditional legitimacy (see, for example, Bellina et al., 2009; OECD, 2010; Rocha Menochal, 2011). On this basis, where services are provided equitably and efficiently, it is assumed that citizens will experience the state as a state that 'performs' and thus accord it legitimacy. However, research conducted by the SLRC consortium<sup>6</sup> and by McLoughlin (2014, 2018) finds a complex relationship between a state providing services and citizens considering the state to be legitimate.

McLoughlin (2014) argues that multiple variables can influence the relationship between state legitimacy and state services. Factors such as shifts in citizens' expectations of what the state should provide and differences in how services are experienced and attributed to the state could be influential. Importantly, there may be other issues which influence whether a person approves of the state, but these may be completely independent from service provision (McLoughlin, 2014).

Whether people regard the state as legitimate appears to be influenced by how they feel it treats them. Fisk and Cherney (2017) claim that if a person feels that the state treats them and their social group with respect,

<sup>6</sup> See, for example, Godamunne (2015).



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they are more likely to consider it to be legitimate. In their recent study of Nepal, Fisk and Cherney (ibid.) conclude that perceptions of fair decision-making and respectful treatment were strong predictors of legitimacy in Nepal, far more than perceptions of how fairly public resources were shared.<sup>7</sup>

Acknowledging the breadth of factors which may influence whether someone considers the state to be legitimate, we use Beetham's (1991) theory of legitimacy as a starting point for this study. Beetham asserts that legitimacy is a two-way process negotiated between the state and citizens. Beetham's theory implies that the state has to be perceived to represent and enact citizens' core values, rather than simply meet their expectations in terms of access to services or resources. So, to understand state legitimacy in Nepal, we look for examples of citizens' beliefs about what the state should be and do and compare this with how they actually experience and perceive the state.

We focus on 'local' or 'subjective' legitimacy, which aims to understand legitimacy from the perspective of individuals or groups in the Terai, rather than a pre-determined set of indicators (e.g. Mcloughin, 2018; McCullough, 2015). In line with Beetham's theory and political settlement analysis, we recognise that the state may be legitimate for some but not for the entire population.

What is also important in studying state legitimacy is its stability. Beetham argues that although legitimacy may be a useful and efficient way for a state to maintain the loyalty of citizens, a state may not need or seek to be legitimate to *all* citizens. Rather, a state may be able to maintain power through being legitimate to only those who are sufficiently 'free' to choose whether or not to be loyal to the state (Beetham, 1991).

Here, political settlements theory offers a helpful conceptualisation of how a state maintains its power. Political settlements theory emphasises the importance of the (implicit or formal) agreement through which national resources are distributed between elite groups, to the relative inclusion or exclusion of others (Behuria et al., 2017). This theory draws attention to how one or more social group can maintain power by 'buying' the allegiance of others (co-option) and/or by denying them access to sources of power (repression), rather than working

to exert power in ways that are justifiable according to citizens' normative beliefs (and so establish legitimacy). Political settlements analysis therefore stresses the way in which a state may establish and maintain its power without winning the moral approval of all population groups regarding how it exerts power (i.e. legitimacy).

## 2.2 Political settlement and state stability in Nepal

In Nepal, the political settlement is characterised by a few close-knit economic and political organisations based in Kathmandu that control the country's rents and resources (Roy and Khan, 2017). The heads of larger businesses, lobby organisations and senior bureaucrats are reported to be tightly connected to politicians through patronage networks (ibid). Likewise, national and local politicians also have patronage-based relationships, whereby the local leaders benefit personally from their connection to the national government, and the local leaders help to maintain the national politicians' support base and institutions (Neelakantan et al., 2017). Members of this political, economic and bureaucratic network usually belong to one of the upper-caste hill-origin groups (Brahmin or Chhetri), so the image of a Nepali leader has predominately been an upper-caste Hindu (ibid.). It could easily be assumed that it is more important for the state to be legitimate to this population group than to others.

The Maoists challenged the stability of this political settlement and, more recently, the Tharu and Madheshi movements also challenged the status quo when they sought greater access to formal politics. The Comprehensive Peace Accord in 2006, the ending of the monarchy and the creation of an elected Constituent Assembly signalled a widening of the political settlement and efforts by the state to be more legitimate to other population groups (Stabilisation Unit, 2018). The Maoist demands for greater social inclusion in governance raised the awareness of marginalised groups of their rights. Changes to laws are fiercely contested by non-elite groups (Stabilisation Unit, 2018) and Nepal is now a secular state. The political settlement has, therefore, become more inclusive as the Maoists and the Madheshi have entered the political mainstream.

The legitimacy of the state in the eyes of non-elite groups may still be very weak. As Nepal has established a multi-

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<sup>7</sup> Fisk and Cherney (2017) describe this distinction as the difference between procedural justice (fair decision-making and respectful treatment) and distributive justice (fair sharing of public resources between groups).

party parliamentary democracy, elite capture of the rents from the provision of public services has continued and the state still follows patterns of patronage in distributing public goods (Stabilisation Unit, 2018). This is seen in the dominance of hill-origin Brahmin and Chhetri castes in public-sector positions to the exclusion of other groups and in how elites have been able to resist significant changes to key state institutions (ibid.).

### 2.3 History of violent dissent

The Maoist uprising was a significant moment shaping the Nepali state's recent history and eastern and western Terai experienced this differently. In 1996, the Communist Party of Nepal (Maoist) (CPN-M) began a violent rebellion against the Nepali government with the aim of overthrowing the monarchy and establishing a republic. The civil war ended ten years later with the signing of the Comprehensive Peace Accord (CPA) on 21 November 2006. The CPA brought an end to the monarchy's political power in Nepal, set the path for an elected Constituent Assembly, and pledged to restructure the state 'to resolve existing class-based, ethnic, regional and gender problems' (UN Peacemaker, 2006).

The Maoist strongholds were mostly in the rural hill regions of Nepal, but Bardiya was one of the few areas of the Terai that was occupied by the Maoists. A high proportion of the local population in Bardiya were killed or displaced, whether by Maoist or state forces (Hatlebakk, 2009). Attitudes towards the uprising varied across the district. In some parts of Bardiya, support for the Maoists was strong because they promised redistribution of land to landless households (Newar, 2004). In others, however, people owned their land but were still very poor and wanted education and development programmes. Here, people supported neither the Maoists nor the government and were angry at the disappearances their community had suffered (ibid.).

In eastern Terai, where Dhanusha is located, support for the Maoists was weaker. Eastern Terai has a large population of Madheshi people and at the beginning of the Maoist uprising, the Maoists had supported the Madheshi calls for greater respect for their rights and customs. But, after the Communist Party of Nepal (Maoist) had entered multi-party politics, the Maoists no longer supported ethnic federalism but the redistribution of power along class lines. Many Madheshi people abandoned the Maoists and called for an autonomous Madheshi state. Anger among Madheshi groups towards the Maoists grew and there were threats from Madheshi

groups that there would be 'a flood of blood' if the Maoists attempted land redistribution (Miklian, 2008).

Reflecting on these recent experiences of Maoism, we asked for people's perceptions of inequality, their opinions on the Maoist uprising and the use of violence by the Maoists and the state. Understanding these opinions may help to explain why people have different attitudes towards the state.

### 2.4 Grievances against the state

In the Terai region, as stated earlier, the two largest demographic groups are the Madheshi and the Tharu. Within these two broad ethnic identities there are many caste sub-groups. Both the Madheshi and the Tharu claim to be indigenous to the Terai. However, the Madheshi people are stereotyped as being more Indian than Nepali due to their proximity to the border with India, and because their physical appearance and language is often described as Indian (Upreti et al., 2012). The Madheshi, however, claim that the Nepali government treats them as foreigners, tries to impose the language and culture of elite Nepali hill castes on them and doubts their loyalty to the state (ibid.).

In 1990, multiparty democracy was instated, and a new Constitution was written – but the Madheshi/Terai populations were seemingly still dissatisfied (Upreti et al., 2012). After the end of the civil war in 2006 and the overthrow of the monarchy, the 2007 Interim Constitution was created. However, this did not address federalism or changes to electoral representation, which politicians from the Terai were demanding (ibid.). Madheshi people argued that they have been excluded from jobs in public education and health services on the grounds of their ethnicity (Miklian, 2009). They accused the hill-origin people of colonising the Terai (Miklian, 2009).

Madheshi politicians voiced long-standing grievances, as articulated in the Madheshi politicians' campaign on the following issues:

- 1 The resettlement and in-migration of hill-origin people to the Terai.
- 2 Greater representation of the Madheshi in the electoral process.
- 3 Fair access for the Madheshi to Nepali citizenship.
- 4 Official recognition of Madheshi language and customary rights.
- 5 Greater representation of the Madheshi in state institutions, including the army.

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- 6 More government investment in the Terai economy.
  - 7 The demand for a Madheshi province within the new federal state (Yadav, 2007; Gupta, 2010).

In 2007, the Madheshi demands for greater independence from the state grew violent. The Madheshi People's Rights Forum instigated an uprising in which they demanded an autonomous Madheshi region with the right to self-determination. The protest spread across the southern plain region and demanded that the hill-origin people leave the plains. The violence worsened the social and political divide between the Madheshi population and other Nepali identities (Yadav, 2007; Gupta, 2010). Madheshi armed groups attacked Maoists as well as government employees and others perceived to be supporting the power of hill-origin people in the Terai. Communal violence led to segregation in community groups and many hill-origin people were displaced from the region. This led to government offices and services being short-staffed because many public-sector positions had been held by hill-origin people (Upreti et al., 2012). Armed groups were reportedly common and attractive to youth who were likely to be disillusioned about their employment prospects. In some places, the rise in violence led to youths being forced to align themselves with an armed group for self-protection (ibid.). Government efforts to improve security may have been undermined by opposition political parties who benefit from the intimidation of hill castes (ibid.). Consequently, in Dhanusha, we might expect security provision and access to employment and public-sector positions to be important to how Madheshi and hill-origin people experience and perceive the state.

In Bardiya, where the Tharu people have a significant presence, there is a similar but much smaller political movement. After the rise of the Madheshi movement in 2007, a Tharu independence movement threatened to cause disruption unless they were granted an autonomous Tharu state and identified separately from the Madheshi people (Upreti et al. 2012). The division between the Tharu and the Madheshi widened as the Tharu became wary of Madheshi violence and rejected Madheshi claims that the Tharu were part of the Madheshi group. The Tharu feared they would lose official recognition of their own language and culture if they were subsumed into the Madheshi category (ibid.). Unlike the Madheshi uprising, the state was able to use security forces to quickly calm the Tharu's threats of violence since the movement was much smaller than the Madheshi groups. In Bardiya, another prominent

grievance against the state concerned the Kamaiya system of bonded labour. Until 2000, many of the poorest Tharu people worked as 'Kamaiyas' or bonded labourers for landowners, who provided basic living conditions, such as housing, clothing and food, in return for their work (Chhetri, 2005). It was typically high-caste landowners, who had migrated to the Terai from the hill regions, who used Kamaiyas. Protests and campaigning by Tharu activists and non-government organisations (NGOs) eventually led to the Bonded Labour (Prohibition) Act 2058 (Lowe, 2001), which outlawed the Kamaiya system and freed more than 30,000 people, approximately half of whom were in Bardiya. The government launched a rehabilitation programme that aimed to enable Kamaiyas to establish their own livelihoods and so live independently of their former employers. For example, the government granted some people up to five katthas (0.15 hectares) to help them to do subsistence farming. Tharu activists criticised the government, saying that the amount of land was not enough and that not all Kamaiya households had benefited (Gill, 2018). The government, however, rejects such accusations (Thapa, 2014). Tension regarding inequalities in land ownership, redistribution of land and support to the former Kamaiyas in Bardiya may still be important to how people in this region perceive the state.

## 2.5 Political representation

Hagman and Peclard (2010) describe how local and regional identity politics can be important instruments when territories are redefined, and this is clearly occurring in Nepal. As the government began a territorial restructuring of the country in line with the new federalist system, Madheshi and Tharu political groups campaigned for the new provinces to be organised along ethnic lines. Madheshi and Tharu groups argued that this would give them fairer representation in the national assembly. Protests over the territorial restructuring began in 2015. Madheshi and other Terai political parties organised road blocks and strikes, some of which turned violent. The Indian–Nepali border was blockaded, allegedly by India, seriously disrupting the Nepali economy.

In the case of the Tharu, the separation of three Tharu populated areas (Chitwan in the east, Kailali and Kanchanpur in the west, and Nawalparasi, Banke and Bardiya in the middle) has been very contentious. The Undivided Far-West Movement emerged in 2013 to stand against the separation of Terai districts, fearing that this separation weakened Tharu political bargaining power (Pradhan, 2015). In Kailali district, in far-west Nepal, a

Tharu protest became violent and several police officers died. Following this, the state imposed curfews for several weeks in the urban areas in the Terai (Sturge et al., 2017).


The contestation over ethnic federalism and demands for ethnic representation are reflected in the national election results. In the 2008 Constituent Assembly election, many hill-origin candidates were elected in Madheshi majority areas. But by the 2017 elections almost all the elected politicians in these areas had a Terai-Madheshi identity (Upreti et al., 2012). In the 2017 elections, the Communist Party of Nepal – the Unified Marxist-Leninist party (CPN-UML) – in coalition with the Community Party of Nepal (Maoist Centre) gained control of the federal government. This coalition also won control of all but one province governments and the majority of new local governments. In Province 2 in eastern Terai, however, Madheshi parties – the Federal Socialists Forum Nepal (FSF-N) and Rastriya Janata Party Nepal (RJP-N) – formed a coalition and won control. The Madheshi parties campaigned strongly against central power and so their electoral victory potentially sets Province 2 on a collision course with the federal government.

In western Terai, the Madheshi parties are much weaker. The CPN-UML in coalition with the Maoists governs Province 5, where Bardiya is located. Here, ethnic differences did not have such a strong influence over the elections – three of the eight municipalities elected a UML mayor, three elected a Maoist Centre mayor and

two elected a Nepali Congress mayor. The following discussion of state legitimacy examines how politicians in the two research sites seek the support of citizens and which factors most influence how different people vote.

In summary, the recent political history of the Terai region shows that moments of dissent have occurred over land inequality, a sense of cultural domination by other ethnic groups, and perceptions of unequal ethnic and caste representation in national politics and state institutions. This suggests that national stability and state legitimacy relies far more on solving ethnicity and caste-based struggles for representation and resources than it does on the provision of good quality services to all citizens.

These preliminary assumptions are examined and tested in the following section, using the data gathered from Dhanusha and Bardiya districts.



**National stability and state legitimacy relies far more on solving ethnicity and caste-based struggles for representation and resources than it does on the provision of good quality services to all citizens.**



### 3 How is the state imagined and made real?



In this section, we compare what people expect the state to do with their experiences and perceptions of what the state actually does. We argue that how these expectations and experiences are aligned indicates how legitimate citizens view the state to be.

#### 3.1 What is the state?

The 'state' is not a simple concept, so the research first explored how people understood it. For the majority of respondents, the concept of 'state' is made real by their interaction with their local government office and local politicians. While more educated people were able to give opinions on central government, most people did not know what federalism entailed and said they 'did not know' about other levels of government or politics.

The overwhelming distinction that interviewees made when discussing the state was between the formal laws of the state and how state actors enact them in reality: 'There is no discrimination from the state, but people who represent the state are biased'<sup>8</sup> and 'police and administration are also people. If society is discriminatory, then they are also biased'.<sup>9</sup> Therefore, when trying to understand people's opinion of the state, we try to capture perceptions of both formal state laws and institutions and their experience of them.

#### 3.2 The state as a provider of personal benefits

It was common for people to want the state to give them access to formal state institutions, such as citizenship and land registration, and also to give them personal access to state support or job opportunities. Many interviewees felt that the state should be giving them more material or monetary support to improve their living standards. In Bardiya, which is often badly affected by flooding, people tended to say that a basic responsibility of the government was to give support to flood victims. Others described important functions of government as building roads, providing jobs and providing benefits, such as an old-age allowance and school scholarships. More generally, people called for government to bring 'development,' which was described as infrastructure and factories.<sup>10</sup>

<sup>8</sup> Interviewee, Teria/Madheshi middle-caste, Gulariya, 1 June 2018.

<sup>9</sup> Interviewee, Muslim, Chhireswarnath, 30 June 2018.

<sup>10</sup> More representative data on people's views of the functions of the Nepali state were collected through the panel survey. (SLRC Nepal Panel Survey, Third Round, forthcoming)

In Dhanusha, Province 2, people were more likely to expect the state to create jobs and improve security. Younger Madheshi people in particular often cited improving employment opportunities as a key role of the government. In Province 2, Madheshi and hill-origin people alike called for the state to improve the safety of their property and enhance security. Unlike in Bardiya, where the SLRC 2015 data shows that 95% of the survey respondents felt quite or very safe, in Province 2, several hill-origin interviewees said they were afraid when there were Madheshi-led strikes or protests. People described how some hill-origin people have left the area because of threats from Madheshi protest groups: 'The Madheshi [uprising of 2007] had a slogan to chase hill-origin people from the Terai region. We felt insecure at that time'.<sup>11</sup> However, Madheshi people also complained of the lack of security and were afraid of the reported kidnapping and killing by armed groups. Some called for government to stop the Madheshi protesters and others simply wanted greater security from robbery.

People rarely said that public services such as education, health, water or sanitation were important state functions. Generally, people across the Terai had very low expectations of service provision, which may be unsurprising given the history of non-state provision in the region. Many interviewees described themselves as living relatively independently of the government because public services were inadequate and so they used private health or education services instead. For example:

***'We are not so much dependent on government. Our children are going to boarding school. We go to the private health clinic. We rarely use government services'<sup>12</sup> and 'There are no free medicines at government health service centres [...] what else we can expect from them?'.<sup>13</sup>***

Those who did describe public services as an important function of the state were people who were more educated. They might therefore have different priorities to those who want the state to provide allowances and employment. Findings from the SLRC panel survey conducted in Bardiya<sup>14</sup> seems to explain this finding.

**Table 1: The proportion of respondents using private vs state providers in 2015**

	Private provider	State provider
Health clinic	58%	42%
Girls attending school	37%	61%
Boys attending school	44%	55%

The role of the private sector in the provision of these services suggests that while the absence of public services could affect a person's perception of the state, their experience of the quality of services may not be an influential factor. Indeed, there were no clear patterns in the survey data between people's satisfaction with local or central government decisions and their experience of public services. Nor were there patterns relating to a person's perception of local or central government and their ethnicity, caste, age, wealth or any other personal characteristic. Together, this suggests that there are other factors that have a much greater influence over a person's satisfaction with the government.

### 3.3 Politicians as gate-keepers

Just as people expected personal, tangible benefits from the state, people's relationship with politicians appears to be similarly transactional. In Bardiya, many people described the physical proximity of an electoral candidate as the most important factor when voting. People frequently explained that unless an elected politician lived in their constituency, it would be difficult to ask the politician to do things for them. 'I voted for the person from this area. [...] He knows us, and we can access him';<sup>15</sup> 'I don't vote for the party, [...] being from this area is more important than having the same ethnicity'<sup>16</sup>; 'I voted for the people from this area because they can bring money and development here'.<sup>17</sup> The importance of proximity was also applied to central government. A person in Bardiya commented, 'It is not possible [for a central government politician] to see poor people by sitting on a chair [in Kathmandu], leaders only get off their chairs during election campaigns'.<sup>18</sup> This

<sup>11</sup> Interviewee, Hill-origin upper-caste, Chhireswarnath, 26 June 2018.

<sup>12</sup> Interviewee, Terai/Madheshi lower-caste, Chhireswarnath, 25 June 2018.

<sup>13</sup> Interviewee, Terai/Madheshi middle-caste, Chhireswarnath, 24 June 2018.

<sup>14</sup> The survey did not take place in Dhanusha so we discuss survey findings only in relation to Bardiya.

<sup>15</sup> Interviewee, Terai/Madheshi middle-caste, Gulariya, 8 June 2018.

<sup>16</sup> Interviewee, Terai/Madheshi middle-caste, Gulariya, 9 June 2018.

<sup>17</sup> Interviewee, Terai/Madheshi lower-caste, Gulariya, 10 June 2018.

<sup>18</sup> Interviewee, Hill-origin upper-caste, Gulariya, 14 June 2018.

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is reflected in the 2015 SLRC survey data, which finds that while 40% of people thought that local government cared about their opinions, only 20% of people felt central government did.

In Dhanusha, the caste as well as the proximity of a politician emerged as an important factor in how a person voted. Caste politics were mentioned frequently and lower-caste Madheshi people often complained that upper- and middle-caste Madheshi always won the Madheshi vote yet still treated lower castes badly. A Madheshi man commented, 'Kori and Yadav [caste groups] are in the majority so Kori people said we should vote for the Kori candidate, no matter which party the Kori candidate belongs to. They were saying that if we unite then we will be in power, otherwise we would lose many things.'<sup>19</sup> Unlike in Bardiya however, people in Dhanusha also mentioned political party promises. Some respondents described voting for a Madheshi party because they believed the party would raise their demands in national politics; 'I voted Nepali Congress for the mayor because he is from this area [...] I voted for Madheshi parties for other levels of government [...] because they are struggling for Madheshi rights'.<sup>20</sup>

In both Bardiya and Dhanusha, people commonly view political representatives as gatekeepers to personal resources. Sharing the ethnic or caste identity of the elected politician or living near their home are important for being able to ask an elected leader for assistance in person. In Dhanusha, more people were aware of what political parties were promising. Issues regarding ethnic-based inclusion in the state and access to citizenship and citizens' rights were more important for how favourably a person viewed the state. However, it could be argued that the promises and values communicated by the Madheshi parties were important to people because they hoped that having greater Madheshi representation in government would improve their personal access to state resources. This follows the same line of reasoning as those who voted for the candidate they knew personally in the hope that this would give them better access to resources. The act of voting in Nepal is therefore not a good indicator of state legitimacy. Voting is largely an instrumental transaction based on rational calculations, rather than an act that demonstrates approval of the current political system.

### 3.4 Cultural inclusion matters

We found that expectations of state values largely concerned how someone felt the state treats their social identity group. For many people, it was important that the state included and showed respect for their population group, whether this was a religious, caste or ethnic-based identity group. For example, we found that for those who are Hindu and belong to the hill-origin castes, it was more common to expect the state to invest in Hindu temples and to call for Nepal to abandon secularism and to become a Hindu state again. Others, from minority groups, expected the state to formally include and respect their cultural and religious norms and values, echoing the commitments to equality declared in the CPA and subsequent constitutions. Several Muslim respondents in Dhanusha expressed dissatisfaction with the state because their norms and practices are not part of the Nepali state: 'Our education is religious education[...] our culture is different; Nepal government law is not compatible with our religion. [...] we want our culture and religious values in government law'.<sup>21</sup>

The Alliance for the National Muslim Struggle recently demanded that the government grant a public holiday for a Muslim festival, arguing that otherwise it was not respecting religious equality enshrined in the Constitution (Kantipur Daily, 12 June 2018). Similarly, the Tharu political movement has called for Tharu customary law to be recognised formally by government: 'Usually the Tharu follow their own practices and try to solve things informally without using Nepali law. We should be able to have our own laws at the ward level or municipality level'.<sup>22</sup> Importantly, these groups are demanding formal recognition of their own practices rather than access to existing state institutions. In terms of both Beetham (1991) and Midgal (2001), this is an example of the non-alignment of state laws with citizens' norms and beliefs and so indicates a point of weakness in the state's legitimacy.

How the state responds to these demands, however, is an indication of whether it has a reason to legitimise its power to these minority groups, or rather control, exclude or co-opt them. For example, in Dhanusha, several respondents described how some Hindus had called for the public Muslim call to prayer to be stopped. After

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<sup>19</sup> Interviewee, Terai/Madheshi upper-caste, Chhireswarnath, 26 June 2018.

<sup>20</sup> Interviewee, Terai/Madheshi middle-caste, Chhireswarnath, 26 June 2018.

<sup>21</sup> Interviewee, Muslim, Chhireswarnath, 2 July 2018.

<sup>22</sup> Interviewee, Terai/Madheshi indigenous, Gulariya, 10 June 2018.

discussion with the local government, however, they had agreed that the Muslims could continue, so the Muslim interviewees felt satisfied that the state was treating them fairly and with respect. In contrast, two Madheshi respondents in Dhanusa expressed anger that when the Nepali president Bidya Bhandari visited the Janaki temple, she had not respected religious rules. 'It was a kind of attack on our culture and religion. That is a sign that she does not accept our identity'.<sup>23</sup> Prior to the visit, Madheshi protesters had announced that the president was not welcome in the Terai because they disputed the new Constitution that she supported. President Bhandari visited the temple anyway, which also broke traditional rules because, as a widow, she is not supposed to worship there and also because her guard wore leather shoes inside the temple.<sup>24</sup> Such an action by a Head of State can clearly be a symbolic way of excluding a population group and demonstrates that the state has the power to continue to govern without acquiescing to the group's demands. This echoes Fisk and Cherney's (2017) work that argues that the way in which Nepali state treats the cultural symbols of a population group is important for how that group perceives the state. This is about personal and group identity: If people feel that the state does not recognise and respect their identity, they are likely to feel excluded and resentful of the state.

### 3.5 The state is unfair

The principle of fairness emerged strongly when people discussed the state's values, how state functions were performed and how public resources were shared (the process as well as the outcome).

First, regarding the provision of benefits, such as access to birth registration and to government jobs, the overriding complaint was that this was not fair. When asking people whether they felt the state treated all citizens equally, all respondents except one described how state actors give preferential treatment to others, whether on the basis of personal connections or a shared identity through caste, ethnicity or religion. The pervading sentiment, that others were benefiting more from the state more was frequently linked to feelings of anger towards the state and a sense of neglect and exclusion. Other studies of state injustice have found similar results,

where perceptions of unequal access to public resources led to cynicism towards the state (McLoughlin, 2018).

Some respondents perceived the state as unfair even if this was not based on their own experience. Almost all respondents in Bardiya argued that the process of allocating reparations had been unfair, regardless of whether a respondent had received a comparatively large amount of post-flood support. Others appeared to be repeating this narrative of injustice despite not having experienced discriminatory treatment themselves: 'Government staff discriminate against some people. I have not faced this myself, but I have heard about it'.<sup>25</sup> This suggests that popular attitudes towards the state can strongly influence how people judge it. For people who are not literate and those living in more rural areas, information about politics and government seem to primarily spread through social networks and by politicians visiting communities to share news. Indeed, we found that in both Bardiya and Dhanusha, politics and governance issues are rarely discussed on local radio and local newspapers were not readily available. Moreover, the SLRC survey showed that only 23% of households in Bardiya had a radio and that 41% of people are illiterate. Perceptions of state legitimacy may therefore be socially constructed through hearing local narratives about the state, not just through personal interaction with it.

Others accused the state of being unfair based on personal experience. In nearly all interviews, there was a clear lack of trust in government decision-making processes related to the distribution of material support. In Bardiya, for example, the process for assessing how much flood reparation support a household deserved was highly contentious and no-one felt that the list of victims and resource distribution had been administered fairly. Others described unequal treatment by the state on religious grounds. For example, one Muslim respondent complained: 'There was a Madheshi upper-caste nurse who asked why we Muslims went to that hospital. Then I asked her where else we should go. We are not valued by government'.<sup>26</sup> Others described inequality due to caste or ethnic differences; 'In the army and police, there are no Madheshi. Madheshi people are always rejected for these jobs'<sup>27</sup> and 'The government

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<sup>23</sup> Interviewee, Terai/Madheshi middle-caste, Chhireswarnath, 25 June 2018.

<sup>24</sup> Based on discussion with Nepali researcher.

<sup>25</sup> Interviewee, Hill-origin lower-caste, Gulariya, 13 June 2018.

<sup>26</sup> Interviewee, Muslim, Chhireswarnath, 30 June 2018.

<sup>27</sup> Interviewee, Terai/Madheshi middle-caste, Chhireswarnath, 25 June 2018.



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prioritises the Tharu. The government also supports the indigenous (Janajatis) and the low caste people so they get benefits too these days. We as upper caste do not get anything'.<sup>28</sup>

Formal access to the state through citizenship was another frequent complaint related to fairness. Many Madheshi interviewees described difficulties in obtaining citizenship certificates and were angry that this prevented them from accessing economic opportunities. Since 2000, the government has sought to provide citizenship cards to Madheshi and other Janajati groups but many still have no proof of citizenship. One young Madheshi man explained; 'There are many [Madheshi] youths who do not have a citizenship certificate. Without a citizenship certificate, getting a job is not possible. Without citizenship no one can go out of the country to work and earn except for India'.<sup>29</sup> In Province 2, Madheshi political parties have been campaigning on issues of citizenship, primarily claiming that the people who have Nepali citizenship through marriage should have the same rights as people who are Nepali citizens by birth, and that the

children of Nepali women married to Indian men should have Nepali citizenship.

In summary, people expect personal access to resources from government and politicians and they expect to be treated fairly in the way in which they, and their identity group, are given this access. The Terai population has very distinct cultural groups and each group expects to be formally represented in the state and for the state to recognise and include their norms and practices. However, people often feel that they and their identity group are being treated unfairly by the state, whether in terms of access to public resources, exclusion from formal rights or having their cultural practices excluded or disrespected. This perception of unfairness may be informed by personal experience, observation of others or popular local opinion. The failure of the state to meet normative expectations of fair and respectful treatment could, according to Beetham's theory (1991), weaken the state's legitimacy, regardless of whether an individual or group objectively has greater access to public resources than another.

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<sup>28</sup> Interviewee, Hill-origin upper-caste, Gulariya, 10 June 2018.

<sup>29</sup> Interviewee, Terai/Madheshi middle-caste, Chhireswarnath, 3 July 2018.

## 4 How state legitimacy is negotiated



The issues at the heart of state legitimacy in the Terai appear to concern how the state provides material support, infrastructure and security and how it respects cultural and religious practices. Citizens expect the state to perform these functions in a manner that is fair and in which they feel to personally benefit. They also expect the state to accommodate their cultural or religious norms so that they feel their identity is fairly represented. Citizens seem to be more likely to contest the state when they feel their culture is not respected or they have unfair access to state resources and this may lead them to protest or live outside the state system. This value of fairness appears to cut across all functions, underlining the importance of how a state function is experienced more than the simple performance of a function.

In the following section, we further explain this conclusion with examples of how and why the state has tried to enforce or legitimate its power to different groups within the Terai, and how and why citizens' groups have responded differently. Analysing recent examples of this should indicate to whom the state attempts to legitimise its power and which groups the state aims to control, exclude or co-opt.

### 4.1 Contestation of the state

The clearest examples of recent contestation of state legitimacy in the Terai are the Madheshi and, to a lesser extent, the Tharu political movements. Both movements called for greater autonomy for their ethnic group, contested the new Constitution and tried to influence the federal structure of Nepal. The Madheshi movement, which is larger and more forceful than the Tharu movement, was met with violence by the police and some protesters were killed. In what respect were the actions of the protesters a contestation of the state's legitimacy? Did the use of violence against citizens clash with citizens' expectations of the state and thus delegitimise the state?

For some citizens, the use of state violence was morally unjustifiable and so is likely to have weakened the state's legitimacy in their eyes. A Madheshi respondent said, 'Police action on the Madheshi movement was not good. Police should use rubber bullets, but they did not [...] It is a wrong action by the government'.<sup>30</sup> However, for others, the use of violence was justifiable and the need to control and quell the protest was far more important. Hill-origin people in particular expressed satisfaction with the police

<sup>30</sup> Interviewee, Terai/Madheshi middle-caste, Chhireswarnath, 26 June 2018.

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for taking action against Madheshi protesters. One hill-origin person said, 'If the Madheshi had won their protest, we would have had to go back to the hills. It was good that the government took action against the Madheshi movement'.<sup>31</sup> The police response to the protest may therefore have strengthened the legitimacy of the state to the hill-origin population but at the same time weakened its legitimacy to some of the Madheshi.

The protests were clearly a process through which the state's power was tested but what do they tell us anything about why or when people in the Terai will challenge the state? Were the protests driven by citizens' anger at the illegitimacy of the state or by other less ideological motives? In Dhanusha, Madheshi respondents' opinions on the demands of the Madheshi parties varied and several people described how both Madheshi and Tharu leaders bribe or blackmail people into protesting. For example, 'the Badghar's Chaukidar [Messenger of Tharu community leader]<sup>32</sup> told all the people to participate in the rally so we all went. If we did not go, we would have to pay a fine of 200 rupees'<sup>33</sup> and 'people take part because of free alcohol and money provided by the political parties'.<sup>34</sup> It seems, therefore, that people could be mobilised to contest the state in return for material benefits, not necessarily on the basis of values. An important factor influencing whether or not someone chose whether to participate appears to be a person's financial and personal security. For example, some Madheshi people could be persuaded to protest with bribes of alcohol or money whereas others resented the protests because they disrupted their business. Similarly, some felt compelled to protest to avoid being fined by their community leader whereas others feared police violence more; 'I think that if the government treats us badly, we should stand against the government but it's also difficult to take a stand. During the Maoist insurgency, it was dangerous. The police would take us from the street and beat us'.<sup>35</sup>

A more critical interpretation of the Madheshi and Tharu movements could therefore argue that the protests are less about the legitimacy of the state and more about the access of the Madheshi and Tharu elite to

the current political settlement. Madheshi and Tharu political leaders have been accused of mobilising people to protest but once elected, not representing the interests of all Madheshi people. There is clear distrust of Madheshi and Tharu leaders. A Madheshi man complained, 'Madheshi political leaders are not fighting for the people. They are doing all these things for their positions in the cabinet'.<sup>36</sup> Similarly, a scholar of the Tharu movement commented, 'The Tharu campaign failed because the Tharu elite didn't defend the rights of the other Tharu people'.<sup>37</sup> The success of Madheshi political parties in the 2017 elections and in forcing national debate on citizenship rights shows the movement is successfully disrupting the political settlement. Yet, it is Madheshi politicians more than Madheshi people who have gained greater access to state power. Neelakantan et al.'s (2017) work supports this analysis when they note how new political actors in Nepal use 'the instrumentalisation of agendas, ideology and weaker partners in the pursuit of access to state power and resources'. From this perspective, the Madheshi and Tharu political leaders are contesting the state's legitimacy on the grounds of their personal exclusion more than on the exclusion of their respective ethnic groups.

## 4.2 From acts of control to seeking legitimacy

The way in which the state has acted towards the Tharu is an interesting example of how state legitimacy is a process, continually being negotiated. Until recently, many of the poorest Tharu people were trapped in a system of bonded labour (Kamaiya system) in which they were very vulnerable to abuse. However, persistent campaigning by Tharu groups, with some international support, argued that the Kamaiya system was unconstitutional under the 1990 Constitution (Fujikura, 2001). In 2000, the protesters managed to push the Nepali state to outlaw the Kamaiya system (ibid.). While Tharu activists still call for more support to the former Kamaiya labourers, there have also been government-run rehabilitation programmes to support them and uphold their rights (Gill, 2018). Public attitudes towards the Kamaiya now seem sympathetic and hill-origin respondents frequently

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31 Interviewee, Hill-origin lower-caste, Gulariya, 13 June 2018.

32 A Badghar is a community leader in Tharu society in Bardiya (western Nepal).

33 Interviewee, Terai/Madheshi indigenous, Gulariya, 14 June 2018.

34 Interviewee, Terai/Madheshi upper-caste, Chhireswarnath, 26 June 2018.

35 Interviewee, Terai/Madheshi indigenous, Gulariya, 10 June 2018.

36 Interviewee, Terai/Madheshi middle-caste, Chhireswarnath, 1 July 2018.

37 Interviewee, Hill-origin upper-caste, Kathmandu, 6 June 2018.

described how the Tharu are honest or moral people, making their exploitation less socially unacceptable.

The Tharu, unlike the Madheshi, are seen as Nepali and as less of a threat to the current political settlement. Accommodating their access to state resources may not seem as risky for the ruling elite as meeting the demands of the Madheshi. The government has given land to former Kamaiya workers and several people commented how the Tharu are now more likely to have a position in government office. One example of how the Tharu are now more included in the state came from Bardiya:

'One of the office assistants in the district tried to keep a Tharu girl as a house servant and tried to sexually abuse her but her aunt heard her cry and she found out. Her aunt went to the deputy mayor in Barbardiya and she filed a case against the officer and now he is in jail. People know their rights now and are fight for them. People are less ready to discriminate against the Tharu.'<sup>38</sup>

This anecdote may indicate that social attitudes towards gender and sexual-based violence are shifting as well as demonstrating a change in how Tharu people are treated by the justice system. As these power relations, social norms and formal laws change, the Tharu people and Nepali women more generally may view the state more favourably.

### 4.3 Clientelism as a mechanism for co-optation or legitimacy?

A strategy commonly used by the state to maintain its power is co-optation. People in east and west Terai frequently described how government staff use bribery to control citizens' access to state resources and processes. While people resented the culture of bribery, no-one felt able to avoid it but rather that they were trapped within it. Similarly, most people expressed cynicism towards politicians and their electoral promises. But, almost everyone we spoke to preferred to participate in elections in the hope of gaining some personal benefit, rather than abstaining and so risking exclusion from state resources. A low-caste farmer explained, 'we voted because we are Nepali citizens, so we have to vote. Political leaders say if we don't vote, it will be hard for us to get documents and things like a citizenship certificate from the government offices'.<sup>39</sup> State actors can clearly maintain their position

of power using bribery and blackmail even if citizens consider this use of authority to be immoral.

Yet, on the other hand, could such clientelist and prebendal behaviour by state actors be a mechanism for legitimacy? In the Terai, and in Nepal more generally, the political culture of clientelism dominates how people describe the state and what they expect of it. People tend to expect tangible personal assistance from government and from elected politicians and so politicians respond to this. It could be argued that this is an alignment of people's expectations of the state and state actors' actions, which responds to and reinforces the culture of clientelism. Locally, therefore, state actors may be able to maintain their legitimacy by directing material benefits to their voters rather than improving public goods which are shared by all.

However, clientelist and prebendal behaviour does not allow the state to legitimise itself to all, only to those who are favourably treated. Given the divided nature of Nepali society, where different population groups have directly competing demands, the actions of state actors frequently result in strengthening their legitimacy to one group at the expense of another. McLoughlin (2018) warns that even if a state actor wishes to treat each group fairly, where groups have conflicting ideas of what is fair, its actions may unavoidably result in fractured legitimacy. For example, despite the strong public call for government to construct new roads, even doing so can bring the state into favour with some but not all. A woman in Chhreswarnath felt unfairly treated; 'People on the other side of the road have not lost any land but I am losing land for the road [...] the engineer took my land and he did not take land from the Madheshi people. I think it is because I am from the hill-origin people'.<sup>40</sup>

Instances of preferential treatment can indicate which population groups are the core legitimacy audience of the state. For example, the use of police violence against Madheshi protesters suggests that state actors are choosing to legitimise their power to hill-origin people while repressing the Madheshi protesters. In Bardiya, the mayor appeared to try to legitimise his power to people with whom he has personal connections, who are his core legitimacy audience. It seems that rather than identifying *one* core legitimacy audience, the state's legitimacy is negotiated between different groups and over different

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<sup>38</sup> Interviewee, Hill-origin upper-caste, Gulariya, 10 June 2018.

<sup>39</sup> Interviewee, Hill-origin lower-caste, Gulariya, 13 June 2018.

<sup>40</sup> Interviewee, Hill-origin upper-caste, Chhireswarnath, 22 June 2018.



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issues in different places. To gauge a state's legitimacy, it seems important to understand how legitimacy is being negotiated locally as much as nationally.

#### 4.4 The legitimacy of non-state institutions

To understand how state legitimacy functions in the Terai, it is worth reflecting on the relative importance of the state to other forms of governance that influence stability in the region. The state is often relatively unimportant to people's lives, especially in poorer, more rural areas where people have little education or direct interaction with government. The Bardiya survey data also shows this distance from the formal state, where in the case of a flood, drought, loss of asset or even a security threat, people were more likely to first turn to their friends for assistance than to local government.

In the absence of an easily accessible system of governance, community-level governance systems function instead. Two examples of these in the Terai are church communities and Tharu communities, which each have a form of tax collection to support community members and to make shared improvements to the local area. Tharu communities have a chosen leader, a 'Badghar', who is responsible for resolving local disputes according to customary law. The existence of these alternative governance institutions does not necessarily delegitimise or oppose the Nepali state but does, for some people, reduce their dependence on the state. It also highlights the gap between the formal state and everyday life for many citizens. Two Tharu people explained; 'I would use the Badghar to solve a dispute because it's easier because he's here. To go to the government court or police would be more expensive'<sup>41</sup> and 'the Badghar is really useful, I like having it in this community. It is easy to use it for justice because it is close by. If I'm not satisfied I can go to the Nepali government system instead'.<sup>42</sup> In this way, the Tharu

justice system can exist alongside the formal state and the Badghar may act as an intermediary, facilitating citizens' access to justice according to their expectations.

Both the Tharu and Christian communities have local tax and welfare systems with which their members seem happy to comply. This could suggest that members of these communities have greater trust in their community institutions than in the state. Payment of tax to a government might be a sign that the state is legitimate, and hence that the high rate of tax avoidance in Nepal could indicate that few people think that the government will use their money effectively, or fairly. There is currently strong opposition to proposed tax increases and, as a Nepali scholar commented, 'people don't trust the government to use their money. Here the state has less legitimacy'.<sup>43</sup>

The Christian and Tharu communities' practice of taxing members and sharing benefits may demonstrate that people are willing to pool some of their resources when they feel an affiliation with the others and can personally approach their community leader. A Tharu woman explained; 'I prefer to use the Badghar rules and system over the Nepali state system. The Badghar is inside our community and if we need help, they will support us [...] Everyone can participate, there's no elite rule'.<sup>44</sup> Other research by the SLRC and the International Centre for Tax and Development also found that in Nepal and Sierra Leone local non-government systems of tax were considered to be fairer than formal government taxation (Jibao et al., 2017; Mallett et al., 2016). It could also be argued, however, that at the community level, people may be less able to avoid tax and it is difficult to know if people freely choose to participate in community governance arrangements. The same methodological difficulties of assessing legitimacy at the national level also exist at the community level.

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<sup>41</sup> Interviewee, Terai/Madheshi indigenous, Gulariya, 11 June 2018.

<sup>42</sup> Interviewee, Terai/Madheshi indigenous, Gulariya, 11 June 2018.

<sup>43</sup> Interviewee, Hill-origin upper caste, Kathmandu, 5 June 2018.

<sup>44</sup> Interviewee, Terai/Madheshi indigenous, Gulariya, 10 June 2018.

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## 5 Conclusion and implications



This study set out to understand how state legitimacy is negotiated in the Terai. First, we asked what different population groups expect of the state in terms of functions and values, whether they feel these expectations are met, and whether public services featured within this. Second, we examined if and how the state tries to meet citizen expectations, and how citizens respond to this.

We found that the issues that appear to most influence how a person judges the state varied between Bardiya and Dhanusha. In discussing the state in Bardiya, people were most likely to refer to how the state allocates material benefits and grants citizenship or land rights. In Dhanusha, people spoke more about discrimination in obtaining government jobs and the need for the state to improve security. Many people also talked about whether the state respected their culture or religion.

That said, the importance of fairness was reflected across all groups in the study. Citizens were more likely to contest the state in both Bardiya and Dhanusha when they felt unfairly treated (whether it was a lack of respect for their culture or not enjoying fair access to state resources). State functions (including service provision, but also land and citizenship rights, material support following shocks, etc.) can signal values such as fairness through the way that the service is delivered. In both Bardiya and Dhanusha, fairness was interpreted at a group level, in other words, the state actions were judged as fair when one's own social group was treated as respectfully as other groups.

Unfortunately, nearly all the people we spoke to from all identity groups felt unfairly treated by the state. The social divisions mean it is difficult for state actors to meet the competing and sometimes conflicting expectations of every population group. Moreover, in Nepal there is an entrenched political culture of clientelism and prebendalism, in which people expect the leader they vote for to channel benefits to them personally (Neelakantan et al., 2017). As a result, it is far easier for state actors, political or otherwise, to give preferential treatment to their core legitimacy audience than to ensure all groups are treated fairly. Indeed, even if a state actor tried to treat all groups equally, there is a strong public discourse alleging that the state is unfair, and this shapes people's perceptions regardless of their own experience. Locally, state actors can maintain their power through directing benefits to supporters but also, at times, through blackmail and police force. Citizens often express anger and frustration at immoral behaviour of politicians and

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bureaucrats, but few are willing to take the personal risk of contesting their power.

Contestation of the state in the Terai currently concerns ethnic identity. Ethnicity-based movements have demanded changes to federalism, the constitution, formal law and citizenship rights on the basis of fairer ethnic representation. How the state responded to these challenges is indicative of the ever-evolving process of legitimising state power. Most examples of contestation were met with state-endorsed resistance, such as police violence against Madheshi, Maoist and Tharu movements. In these instances, the state may have lost legitimacy among the protesters and their supporters but maintained it among its supporters. Yet, changes in state institutions have occurred, for example the Kamaiya system was abolished, formally excluded political leaders have gained access to political power and a new Constitution recognising equal rights and secularism has been passed. In these instances, the state appears to have acted in accordance with some citizens' demands and so its legitimacy among these groups may have increased. These events demonstrate visibly how the political settlement is challenged and indicate which issues are most important to the state's legitimacy.

### 5.1 Services and a legitimate state

We conclude that both the mechanisms through which state functions are delivered and how people feel their cultural values are respected shape citizens' perceptions of state legitimacy. The provision of services such as education and health are not the *main* factors influencing perceptions of state legitimacy because the state is rarely the primary provider and people prioritise other concerns. However, the state's provision of services could still affect how citizens feel they are treated by the state. Within this, the influential factors to consider would be how citizens can feel confident that they and their social group are included fairly in the provision of a service and whether citizens attribute this sense of fairness to the state. Assuring citizens that they are treated fairly would of course be difficult. Both Beetham (1991) and Easton (1975) warned that where services are provided unequally, perceptions of legitimacy may be threatened.

Making generalisations about the connection between public services and legitimacy is, however, unwise. Public services have different characteristics that shape how a person experiences them and to whom they attribute their quality (McLoughlin, 2018). For example, someone may judge a school by the visible quality of the

classroom rather than the teaching and a patient in a health clinic could blame the pharmacist if the medicine they need is not available even if this is the fault of the central government supply chain. Consequently, it is important to consider what elements of a service are likely to inform how someone judges it. Schmelzle and Stollenwerk (2018, cited in McLoughlin 2018) also warn of the difficulty of understanding how a person generalises from a perception of a single service to their perception of the state as a whole. The SLRC survey also found that between each round of the survey, people frequently changed between public and private service providers. This inevitably makes it difficult to assess how someone's experience of a service influences their perception of the state. Neither the survey nor this study could indicate whether the absence of state-provided services is negatively affecting the state's legitimacy. So, for public services to support the state's legitimacy, they would have at the very least to meet the normative criteria of fairness. Even then, given the complex nature of how citizens may move from their experience of a service to their perception of the state, the potential for *fair* service delivery to strengthen state legitimacy is not guaranteed.

### 5.2 The impact of federalism

Reflecting on the recent introduction of federalism in Nepal, we consider what implications the findings of this research may now have for state legitimacy. Under federalism, local government now has much greater responsibility to citizens for service provision and deciding how public funds are spent. The reintroduction of local elections also brings more importance to the state-citizen relationship at the local level. Local elections theoretically mean that people now have more access to government decision-making at the local level and many people thought that local government now has more power and resources at its disposal.

However, federalism may struggle to fulfil people's expectations of what local government can do for them. While many people interviewed did not know what federalism involved, they were hopeful that the promises that local politicians had made could now be realised. But, local governments face numerous challenges as they take on new and complex responsibilities and persuading citizens that they are being treated fairly is likely to be difficult. Social divisions in the Terai are stark and particularly raw in Province 2 where hill-origin people have fled due to threats from Madheshi groups. Where groups have opposing interests, it may not be possible for local government to distribute resources,

provide security, and create space for alternative cultural practices in a way in which each group feels fairly treated.

Clientelist politics are firmly engrained and so politicians are expected to reward their supporters for their loyalty, thus making impartial distribution of resources politically difficult. To attempt to treat all citizens fairly, local government could invest resources in a widely shared public good, such as a school, which may be more equally accessed than, for example, support for flood victims. However, there is less public demand for such services and so potential political gains are likely to be low. Consequently, local politicians may not strengthen their legitimacy to any social group. These constraints suggest that federalism may lead to

greater cynicism towards government and so negatively influence perceptions of the state.

We conclude, in line with Fisk and Cherney (2017), that for state legitimacy to be strengthened in the Terai, the way that the state engages with citizens must result in citizens feeling that they are being treated fairly and with respect. This concerns how citizens experience public services and more salient issues such as access to employment and financial support but also whether they feel their social identity is respected and what assumptions about the state are repeated through public discourse. Only when these various messages, processes and experiences can convince citizens that they and their social identity group are fairly valued by the state are citizens likely to acknowledge its moral authority.

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## Appendix

### Conceptualising state legitimacy

In international development, legitimacy is commonly understood in terms of 'sources', for example performance-based legitimacy, process-based legitimacy or traditional legitimacy (see, for example, Bellina et al., 2009; OECD, 2010; Rocha Menochal, 2011). This understanding of legitimacy is heavily influenced by Weber's 'sources of authority' (2009). Using this logic, if the performance of a state is a source of legitimacy, it is easy to conclude that high-quality services provided by the state should increase its legitimacy. It could be argued that services are a point of contact between citizens and the state and so by using services, they form an understanding of the state's operative values, capacity and commitment to wellbeing. On this basis, where services are provided equitably and efficiently, it is assumed that citizens will experience the state as a benevolent authority that takes care of its citizens in exchange for taxes and loyalty.

Research conducted by the SLRC consortium<sup>45</sup> and by McLoughlin (2014, 2018), however, finds a complex relationship between a state providing services and citizens considering the state to be legitimate. McLoughlin (2014) argues that multiple variables can influence this relationship. Factors such as shifts in citizens' expectations of what the state should provide and differences in how services are experienced and attributed to the state could be influential. Importantly, these factors regarding service provision are not necessarily aligned with other factors influencing a person's approval of the state (McLoughlin, 2014). McLoughlin (2018) also emphasises that how a service is perceived to be provided can affect a person's perception of the state, regardless of the service's material outcomes or an objective measurement of its quality. How someone feels they are treated by the state is critical here. Lind et al. (1993) argue that people judge their value in a society by the ways in which they are treated by the state. In this sense, how someone feels they are treated when using a state service can shape how they feel they are valued, but so could a sense of being neglected by the state due to an absence of services.

Fisk and Cherney (2017) expand this concept and argue in their study of state legitimacy in Nepal that how the state treats a whole social group is also important. Following Tajfel's (1981) theory of social identity, it is how the social

<sup>45</sup> See, for example, Godamunne (2015).

group to which an individual belongs is treated that tells a person how they are valued within a national population. Fisk and Cherney (2017) claim that if a person feels that the state treats them and their social group with respect, they are more likely to consider it to be legitimate.

Fisk and Cherney also make a distinction between procedural justice<sup>46</sup> (fair decision-making and respectful treatment) and distributive justice (fair sharing of public resources between groups). In their recent study on Nepal, Fisk and Cherney conclude that procedural justice was a strong predictor of legitimacy, far more so than distributional justice (2017). Other studies of state legitimacy also highlight the difference between the two types of perceived injustices. For example, Hattleback (2009) claims that inequality in accessing land (example of procedural injustice), rather than landlessness itself was more likely to mean a person supported the Maoist uprising. Based on historical case studies of the outbreak of civil war in the Balkans, Rothstein (2009) concludes that political legitimacy is based on citizens' perceptions of procedural fairness in the implementation of public policies. These studies are consistent with the findings from SLRC, which concluded that:

***... being aware of more grievance mechanisms and having been consulted about more services was associated with more favourable perceptions of government. [...] analysis strongly suggests that systems of accountability and inclusiveness in public services make a difference to how people feel about government. (Sturge et al., 2017)***

In this research, we therefore consider how fair citizens consider the state to be and whether this concerns procedural or distributive fairness. We also pay attention to people's perception of state processes as well as the outcomes. To do this, we attempt to trace how and why acts of consent to and dissent of the state's authority emerged in recent history and how people now expect the state to use its power.

In our approach to studying the state in Nepal, we are aware of the bias in state-building literature towards understanding state formation based on European experiences. Concepts developed by renowned scholars such as Tilly (1975) and Rokkan (1975), based largely on European experiences of state building in the nineteenth century, may not be helpful for understanding

the construction of state legitimacy in Nepal. As Midgal (2001) emphasises, unlike in nineteenth-century Europe, today 'states are made up of multiple agencies and bureaus [...] forces pulling them in different directions – regional demands, interest group leverage, international pressures – are tremendous'. This is especially relevant to the Terai of Nepal, where the population is deeply divided along ethnic, caste and religious lines, and social group identities are strong.

Theorists have also drawn attention to the difficulty of separating the state from its citizens. Gupta (1995) and Kertzer (1988) argue that rather than trying to make a clear distinction between state and society, what matters is how society collectively creates the state through imagery and discourse. Likewise, Abrams (1977) argues that while the state exists as a system that is experienced through the actions of government institutions, it is also an idea, which is believed in and takes different forms for different people. Multiple narratives of what the state is are therefore likely to exist within any one nation state but Laitin (1986) theorises that there can still be a 'collective self-consciousness', or perceived shared values that act as cultural glue across social groups. In these approaches, the role of culture or ideology is important in maintaining the state's stability and coherence (Midgal, 2001).

In understanding the state as something more abstract than the tangible actions of a government, we consider how the legitimacy of a state may be established through imagining it as representing certain values. Here, we reflect on Beetham's critique of Weber's theory of state legitimacy. While Weber believed that a ruler achieved legitimacy when the ruled *believed* in the ruler's right to rule, Beetham (1991) argued that legitimacy is not a belief but a phenomenon that is negotiated through a two-way process. First, the way that the state exerts power should be in accordance with established rules, which must align with normative beliefs held by those being ruled. Second, the ruled confer legitimacy on the ruler by producing acts of consent. We consider why citizens may produce acts of consent and whether the state's actions are *justifiable* according to their beliefs about how the state should behave. While Beetham acknowledges that beliefs will not be uniformly shared by all members of a society, he argues that a minimum shared set of values and beliefs is necessary, similar to Laitin's concept of collective self-consciousness.

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<sup>46</sup> Commonly called 'procedural fairness'.

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Beetham's theory of legitimacy implies that the state has to be perceived to represent and enact core values held by citizens, rather than simply meet their expectations in terms of access to services or resources. Therefore, to understand state legitimacy in Nepal, we look for examples of citizens' beliefs about what the state should be and do, how they actually experience and perceive the state, and consequently how they act in response. Signs that citizens consider the state to be legitimate could include paying taxes (Mallett et al., 2016), voting in elections or participating in the state system. Delegitimising actions, on the other hand, could include protest and refusing to follow state processes. Such actions are, however, specific to a national political culture and actions alone cannot indicate legitimacy since the state can provoke compliance without being legitimate. Furthermore, we acknowledge that perceptions of the state may be socially constructed and informed by discourse as well as being based on personal interaction with the state. An act of compliance is an act of legitimacy only when a person freely chooses to comply. Understanding state legitimacy will, therefore, require a comparison between citizens' expectations of state's functions and values, and their perceptions and experiences of the state.

We focus on 'empirical' or 'subjective' legitimacy which aims to understand legitimacy from the perspective of individuals or groups in the Terai, rather than a pre-determined set of indicators (e.g. McLoughlin, 2018; McCullough, 2015). That is, empirical research to understand state legitimacy in a particular place at the time of research, rather than relying on a set of normative indicators assumed to measure legitimacy. In line with Beetham's theory and political settlement analysis, we recognise that the state may be legitimate for some but not all of a population, and that state actors may seek to maintain their power in different ways.

What is also important in studying state legitimacy is state stability. Beetham argues that although legitimacy may be a useful and efficient way for a state to maintain the loyalty of citizens, a state may not need to be, or seek to be legitimate to *all* citizens. Rather, a state may be able to maintain power through being legitimate to only those who are 'free' enough to choose whether or not to be loyal to the state (Beetham, 1991). Similarly, Migdal argues that a state may maintain its power by 'binding critical elements of the population to the state' (Migdal, 2001:77) and that the loyalty of this sub-population protects the state from competing groups. This is sometimes referred to as the 'core legitimacy

audience' (McLoughlin, 2018). So, the state may employ a range of other strategies to maintain its power over citizens and these strategies may differ across groups. Therefore, in studying state legitimacy in Nepal, we may see acts of consent by citizens, who do not consider the state to be fully legitimate but who are unwilling or unable to contest its power. Likewise, we may see actions by the state that do not seek to meet citizens' expectations but choose to neglect or coerce, or to maintain control through co-option.

Here, political settlements theory offers a helpful conceptualisation of how a state maintains its power. Political settlements theory emphasises the importance of the (implicit or formal) agreement through which national resources are distributed between elite groups, to the relative inclusion or exclusion of others (Behuria et al., 2017). This theory draws attention to how one or more social group can maintain power by 'buying' the allegiance of others (co-optation) and/or by denying them access to sources of power (repression), rather than working to exert power in ways that are justifiable according to citizens' normative beliefs (and so establish legitimacy). Political settlements analysis therefore stresses the way in which a state may establish and maintain its power without winning the moral approval of all population groups over how it exerts power (i.e. legitimacy).

To understand the power-sharing arrangements in Nepal, we draw on the idea in political settlements theory that power dynamics can be analysed in terms of their social foundation, or the extent to which diverse groups are party to the settlement. Kelsall and vom Hau (forthcoming) argue that in a multipolar political settlement, such as Nepal, there are multiple and diverse groups who exert power over the national political leadership and so the incumbent maintains their power (and prevents conflict) through bargaining and deal-making, often through offering access to national resources. Kelsall and vom Hau (forthcoming) also note that some population groups may be excluded, or adversely included, in negotiations regarding access to material resources but that these marginalised groups may still not effectively disrupt the political settlement. This could be because the incumbent has 'a hold over their aspirations and activities', perhaps on the basis of an ideology or shared ethnic or social identity (p.18). Here, we can refer back to sociological approaches to understanding the state, which assert the importance of culture or ideology in maintaining state stability (Migdal, 2001). It may also be because these groups do not have

the power to disrupt the political settlement – possibly due to their size, ability to organise, or lack of resources to contest the current settlement.

In Nepal, the political settlement is characterised by a few close-knit economic and political organisations based in Kathmandu that control the country's rents and resources (Roy and Khan, 2017). The heads of larger businesses, lobby organisations and senior bureaucrats are reported to be tightly connected to politicians through patronage networks (*ibid.*). Likewise, national and local politicians also have patronage-based relationships, whereby the local leaders benefit personally from their connection to the national government, and local leaders help to maintain the national politicians' support base and institutions (Neelakantan et al., 2017). Members of this political, economic and bureaucratic network usually belong to one of the upper-caste hill-origin groups (Brahmin or Chhetri), so the image of a Nepali leader has predominately been an upper-caste Hindu (*ibid.*). It could easily be assumed that it is more important for the state to be legitimate to this population group than to others.

The Maoists challenged the stability of this political settlement and, more recently, the Tharu and Madheshi movements also challenged the status quo when they sought greater access to formal politics. The Comprehensive Peace Accord in 2006, the ending of the monarchy and the creation of an elected Constituent Assembly signalled a widening of the political settlement and efforts by the state to be more legitimate to other population groups (Stabilisation Unit, 2018). The Maoist demands for greater social inclusion in governance raised the awareness of marginalised groups of their rights. Changes to laws are fiercely contested by non-elite groups (Stabilisation Unit, 2018) and Nepal is now a secular state. The political settlement has, therefore, become more inclusive as the Maoists and the Madheshi have entered the political mainstream.

The legitimacy of the state in the eyes of non-elite groups may still be very weak. As Nepal has established a multi-party parliamentary democracy, elite capture of the rents from the provision of public services has continued and the state still follows patterns of patronage in distributing public goods (Stabilisation Unit, 2018). This is seen in the dominance of hill-origin Brahmin and Chhetri castes in public-sector positions to the exclusion of other groups and in how elites have been able to resist significant changes to key state institutions (*ibid.*). Therefore, in studying state legitimacy in the Terai, this research

considers the different strategies the elite use to maintain their position of privilege within the state. These strategies may not be based on legitimising their power to their constituencies, but rather on coercive power. To study this, we look for examples of efforts to co-opt or repress social or political groups that try to disrupt the political settlement.

### Research questions and methodology

We address two assumptions through empirical research in Nepal:

First, this research examines the assumption that providing services gives people an experience of the state, which in turn, 'repairs' or constructs state-society relations, strengthening state legitimacy in the process. We first explore people's ideas about the state. We seek to understand and compare what citizens consider the most important functions and values of the state to be with how they experience and perceive these functions and values in everyday life.

Second, the research questions the assumption that the state seeks to legitimise its power to all citizens. We ask if and how state actors attempt to maintain their legitimacy in Bardiya in western Terai and Dhanusha in eastern Terai. What actions do state actors use to maintain their position of power and do these reflect the ideas of all or only some population groups?

### Research questions

- 1 Are citizens' perceptions of the state's legitimacy informed by their satisfaction with the provision of public services?**
  - a** How do different population groups understand the idea of the 'state' in Bardiya and Dhanusha? How do people imagine the state based on their experience, knowledge, and expectations?
  - b** What are the functions and values which citizens consider important for the state to perform or uphold? Do public services feature among the functions and values that people consider to be important? If so, which?
- 2 What practices does the state use to legitimise its power with different groups?**
  - a** What actions do state actors at the local and national level use to try to legitimate or maintain their power? Considering elected leaders as well as government officers.



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b How do different population groups act to contest to or approve of the state?

ideas about how the state can justifiably exert power over citizens.

## Research approach

We used primary qualitative and quantitative research methods to generate data on the situation in two case-study locations in the Terai: Gulariya municipality, Bardiya district and Chhireswarnath municipality, Dhanusha district. We used semi-structured interviews, a literature review and SLRC survey data analysis.

To understand people's ideas about the state and what functions and values they think the state should perform, we used in-depth semi-structured interviews. The interviews aimed to capture people's personal experience of the state, their relationship with state actors and their ideas about the state's responsibilities and how it performs them.<sup>47</sup> To select interviewees, we sampled people from the different population groups captured in the SLRC survey (considering religion, caste, ethnicity, socio-economic status, sex, age). We selected interviewees by visiting households in different areas of each research site. We interviewed 44 people in Chhireswarnath and 47 in Gulariya. The number of people interviewed from the following caste or ethnic groups was roughly equal:

- Terai/Madheshi upper-caste
- Terai/Madheshi middle-caste
- Terai/Madheshi lower-caste
- Hill upper-caste
- Hill indigenous
- Hill lower-caste
- Terai/Madheshi indigenous
- Muslim

We also interviewed 13 key local stakeholders, such as local political leaders, service providers and government officers. At the national level, we conducted six interviews with Nepali scholars and with people involved in the decentralisation process, either as employees of a donor, central government or an NGO.

To answer the second research question regarding actions by the state and how citizens respond, we used semi-structured interviews. The interviews asked about experiences of contestation of the state and people's

We used data from the SLRC panel survey carried out in 2012 and 2015 to triangulate findings from this research. Analysis of the survey data compared people's satisfaction with local and central government decisions to their personal characteristics, quality of life, and experience of public and private services and security. Since the people who were interviewed for the survey were not the same individuals as those who we interviewed for this qualitative study, to increase accuracy, the survey data was only compared to the qualitative interview data which took place in the same research site (Gulariya). We analysed the data from the primary research and compared it to the theoretical assumptions. We compared the qualitative data to the quantitative data to draw overall conclusions to the research questions.

## Research sites and limitations

We decided to conduct the qualitative research in two research sites – Gulariya (Bardiya district) and Chhireswarnath (Dhanusha district). In Bardiya, the SLRC survey took place in Belwa,<sup>48</sup> Gulariya municipality and Rajapur municipality. We selected one of these survey areas so that both quantitative and qualitative data could be used to answer SLRC research questions. We chose Gulariya because, as a municipality, it is the location of a newly empowered local government, has both rural and urban populations and has the most diverse population. In Gulariya, 23% of the population are Tharu, while Muslims, Hill castes and Madheshi castes each represent between 8% and 10% of the population (Government of Nepal, 2017). We expected this diversity in identity, difference in urban and rural environment and the presence of a local government to provide a range of experiences and opinions on politics and government from different population groups.

We selected Chhireswarnath municipality in Dhanusha district, Province 2 as the second research site in order to compare how state legitimacy is negotiated in both eastern and western Terai. The ethnicity of the populations differs significantly between the two regions. There are more Tharu<sup>49</sup> people in western Terai, while Madheshi people dominate in the east. Ethnic identity

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<sup>47</sup> Please see the Appendix for the interview guide.

<sup>48</sup> Now with the change in administrative model Belwa lies within Basgadhi municipality.

<sup>49</sup> Tharu is an indigenous (Janjati) group of Terai, and Tharus typically demand a separate identity to the Madheshi caste groups.

has featured prominently in political movements, parties and protests in the Terai in recent years, so we expected the differences in ethnicity between the two research sites to provide interesting findings for how state legitimacy is negotiated. Chhireswarnath municipality shares some similarities with Gulariya: both have urban and rural populations and a similar population size. Like Gulariya, Chhireswarnath is an urban centre for surrounding villages and both cities are adjacent to regional sub-metropolitan city. By studying two Terai cities with these similarities but differences in the composition of their population, we hoped that a broad understanding of the process of negotiating state legitimacy in the Terai could be captured.

### Ethics and limitations

The research did not raise significant ethical concerns but the researchers were careful to explain the purpose of the research to potential respondents and involve them only if they were willing to participate. We anonymised the data collected and do not mention specific names and positions in any reports or other documents. There was a risk that some interviewees, especially from marginalised groups, would be afraid to participate in the research because it asks politically sensitive questions. The researchers were careful to not pressure any individual to participate and be mindful of political sensitivities. The researchers were careful to not raise interviewees' expectations that the research would directly generate benefits for them.

The research question is large and state legitimacy is a complicated and contested concept. There are differing opinions in the literature regarding how legitimacy can be studied empirically, so it is likely that some may criticise our methodology. Given the short period of fieldwork and small research sites, the research findings are limited in their ability to fully answer the research questions and are not generalisable to the whole of Nepal, let alone other countries. However, the research should add value to the existing SLRC research and should challenge or support findings from other studies, including the SLRC survey. The research offers an alternative analysis of the link between state legitimacy and service provision and empirically tests assumptions related to state building which could be useful to donors working on security in Nepal and elsewhere

### Interview guide

- 1 How dependent is the quality of your life on the state?
  - a Very dependent
  - b Somewhat dependent
  - c not very dependent at all

Can you give an example of why you think this?

- 2 We have a few questions about the state and how it uses its power. We'd like to hear your opinion on some examples. Firstly:
  - a Do you think the state should be allowed to take violent action against people if they are protesting violently? – Why?
  - b What do you think about the state taking violent action against the Maoist insurgency?
  - c What do you think about the state taking violent action against the Tharu protests?
  - d What do you think about the state taking violent action against the Madheshi protests?
  - e Are there people in your community who do not have land because of their caste or ethnicity? What do you think about this?
- 3 Did you vote in the recent elections (at local, province and federal level)?
  - a Why did you vote?
  - b How do you know if the people you voted for are representing you in government?
  - c What information source do you trust to tell you about what is happening in Nepali government and politics?
- 4 What do you think are the three most important things which central government should do?
- 5 What do you think are the three most important things which local government should do?
- 6 We have three descriptions of the Nepali state, please could you tell us which one you think is most accurate? If none of them are true, please tell us what you think.
  - a Nepali laws and government treat all people equally.
  - b Nepali laws and government mostly treat people equally.
  - c Nepali laws and government treat some people much better than that they treat others.

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Please can you give an example of why you think this statement is most accurate?

- 7 Please can you describe an experience you have had with the Nepali state which was positive?
- 8 Please can you describe an experience you have had with the Nepali state which was negative?
- 9 What do feel your identity is? Do you feel Nepali first or is your ethnicity, your religion or your caste more important to you? Why?









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