



Fig. 1: A ritual in progress at Kasthamandap - preparing for reconstruction after archaeological research © Sudarshan Raj Tiwari

Nepal roundtable on Rights and World Heritage: challenges and opportunities

With an objective to inductively determine the practical implication of the administration of the World Heritage Site (WHS) Conventions on the Rights Practices (RP) and to enunciate policy departures for instituting a Right Based Approach (RBA) of management at WHS properties, this research has been undertaken. The overall research question seeks to empirically document significant factors shaping, hindering or facilitating the articulation of rights, in the World Heritage system at site, country and international levels.

While the research work had just started in Kathmandu, a massive destructive earthquake named the Gorkha Earthquake after its epicenter location hit central Nepal on 25 April, 2015.

The Gorkha Earthquake and its huge aftershock of 12 May 2015 destroyed more than 469000 housing, killing over 8786 and injuring over 22491 in

central hills and mountains of Nepal. Along with the human emergency, it also wrought about a heritage emergency, damaging more than 90% of listed monuments with 133 collapsed, 495 heavily damaged and 493 suffering partial damage. All of the seven monuments zone of the KVVHS suffered similar damage with several of the listed monuments totally collapsing. In the light of this

emergency, the research questions posed for the project were revised so as to study the emergent rights issues as the rescue, recovery, stabilization, restoration and reconstruction process started in the heritage field in general and in the Kathmandu Valley World Heritage Site (KVVHS) in particular.



Fig. 2: Prof. Sudarshan Raj Tiwari speaking at the roundtable meeting @ Sudarshan Raj Tiwari

The first workshop held in December 2015 was used as a platform to discuss the initial stages of this research project. The main aim of the second workshop on 16 September 2016 at the Department of Architecture in Pulchowk, Lalitpur was to follow up the first workshop and share the findings of the research. The workshop was also used to initiate a dialogue between various stakeholders for an effective, participatory reconstruction process. The meeting started with the presentation of the policy paper on local rights in KVVHS by Prof. Sudarshan Raj Tiwari, followed by Prof. Bipin Adhikary, who presented the legal study paper on human rights in world heritage in Nepal. After these presentations, participants discussed and commented on the topics. Prof. Sudarshan Raj Tiwari closed the discussion with some remarks on the way forward in the context of heritage reconstruction. The workshop came to an end with concluding remarks by participants and a summary by Prof. Bipin Adhikary.

The following is a summary of the comments, questions and remarks made by the participants.

Sudarshan Raj Tiwari: *points to be taken as a way forward from the research [Legal Study Paper on Human Rights in World Heritage in Nepal]:*

Only a few of the four categories of local rights presented in the 1st presentation fall under the fundamental rights as mentioned in the Constitution. Though all of them could come into fundamental rights through some interpretation, there are some which need to be assured at a policy/law level.

For now, as we are in the phase of heritage reconstruction, having short term policies or directives that protect the mentioned rights becomes essential.

The findings of the research need to go to the local people and they need to be made aware and conscious about their rights and duties.

Bhim Prasad Nepal: *points to be taken as a way forward from the research [Policy Paper on Local Rights in KVVHS]:*

Considering World Heritage Sites, two rights become more prominent for discussion. First one being customary rights and the other one being constitutional rights. For the preservation of customary rights, AMPA does not ask the locals to get permission from DoA to conduct festivals or traditional events.

A suggestion on further detailing or support on how a research like this can

afford to address to the safety rights concerns for locals residing heritage sites in context of post-earthquake scenario.

Community participation identified as a major issue for tangible and intangible heritage conservation. Identifying the righteous representatives or leaders from the community can be considered a challenge. Now the way forward in heritage conservation cannot take place without community participation. Thus, the main concern now is how do we achieve a balance in the multi-cultural community participation.

Points to be taken as a way forward from the research [Legal Study Paper on Human Rights in World Heritage in Nepal]:

Recommendation on taking the findings of the research to the respective legal bodies to reform or revise the local rights as far as possible.

Points to be considered for finalizing the research [Legal Study Paper on Human Rights in World Heritage in Nepal]:

A suggestion on a detailed analysis on currently implemented rights from different sectors that are applicable in the WHS.

A more comprehensive information on human rights would have enabled the reader to relate to its contradiction or compliance by the WHC.

Further suggestion on justification and pointing out which category of human rights need to be accommodated by the WHC.

Also, it would be more clear if stated from the constitution which rights related to heritage is regulated by which organ of the state at present and if it's valid or not.

Alok Siddhi Tuladhar: *Points to be taken as a way forward from the research:*

Applicability of right issues not only in WHS but also in non-WHS.

As right to information, all the communities related to the damaged monuments in and out of WHS would need to be informed about their legal standing in community participation in heritage reconstruction.

After the finalization of the report and transliteration in Nepali, a request to communicate about it to the communities.

Kai Weise: *Points to be taken as a way forward from the research:*

A crisis ongoing to implement the WHC on tangible, intangible and cultural diversity. The evolving definition of heritage from exclusive to inclusive. Thus, a different management system needs to be proposed to correspond to the inclusive/living heritage.

Problem lies in the lack of understanding or adaptation to the new definition. Considering heritage in the urban context, a bottom-up approach needs to be adapted further.

Diversity of local governance and inter-community conflicts need to be solved from the local level and taken up. Implementation has always been a problem when dealing with diversity at a local level.

Main essence should be in how the communities can be made well aware about their rights.

Purushottam Awale: *Points to be taken as a way forward from the research:*

How does the mentioned rights work for the lower caste people?

Umesh Shrestha: *Points to be taken as a way forward from the research:*

[Taking the case of Sohrakutte Pati] Is the government/state entitled to enforce development and ignore the heritage? If protested and sought to reconstruct the demolished heritage, will it be realized?

Sirish Bhatt: *Points to be taken as a way forward from the research:*

When talking about rights, responsibilities also come into light especially in context of our heritage, where people are driven more in



Fig. 3: Hanumandhoka palace still awaiting restorations © Sudarshan Raj Tiwari

attaining rights than performing duties.

Saraswoti Singh: *Points to be taken as a way forward from the research:*

In the post-earthquake scenario, different concerned groups or communities are coming to the local government with different views on how the public monuments should be restored. Resorting to each and every

group isn't practical or easy at the moment.

Due to insufficient or ineffective incentives, the local people have not been able to build according to the rules in heritage zones.

Rules and regulations should not only be restricted to private building owners but also to the authoritative bodies in charge of reconstructing the public monuments.

Devendra Gangol: *Points to be considered for finalizing the research:*

The objective of identification of the research on local rights -Is it for the protection of WHS? OR to transfer the knowledge to local people about their rights?

Definition of development- Is it in terms of conservation / urbanization / accessibility?

Maybe it should be more about the development of tangible or intangible heritage.

New avatar of Guthi, a much needed concept for contextual conservation or maintenance system.

Points to be taken as a way forward from the research: Importance of policies recommendations in future reforming of laws or policies by the government.

Badan Lal Nyachhyon: *Points to be considered for finalizing the research:*

Qualitative Local representation: It shall be competent to be a representative of the local community.

The example of Mangal Bazar Tole Committee should be looked how far they are relevant to represent the local community for two reasons. The Tole committee is just an adhoc political representation [Just taking part in the meetings without value added contribution].

Points to be taken as a way forward from the research:

Right to Alternative to Loss of Assets because of Legislative Reforms: The Heritage Conservation Sector suffered



Fig. 4: The restoration of the Hanuman temple and palace wing of Nasal Chowk at Hanumandhoka
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major setback back due to the Land Reform Legislation that has changed the ownership of Land Tenant system depriving the Heritage Concerns the assets dedicated by the people that has institutionalised the repair, maintenance and operational function in the life cycle of heritage urban fabric. The right of the community to be compensated with alternative solutions to this deprivation caused by the legislative changes shall be emphasised.

The following concluding remarks were made:

Jharna Joshi: *on the first presentation:*

Assuming there's a hierarchy amongst the mentioned rights, the right to

safety, livelihood and development seems to be at the top in the present context of post-earthquake scenario.

Adarsha Man Tuladhar: *on the second presentation:*

Conflicts and issues raised due to different ownership of rentable ground floor and upper floors in Ason-Indrachowk

Out-migration of local inhabitants affecting the intangible heritage of the communities.

Sudarshan Raj Tiwari: *concluding remarks:*

On the conflicts raised due to diverse community representations: in the 1st community meeting called for

Kasthamandap reconstruction, 110 distinct community representatives came forward. Unlike previous authoritarian and top-down working model, it was to incorporate community into the decision making. Although not easy to work out in implementation, community consultation is the only way out to settle things. A need to change the perspective amongst the official gov. representatives as well. Professional responsibilities are not supposed to be overridden by official responsibilities.

It would be the duty of the professionals to create a balance with the community and their negative perceptions about government projects by welcoming comments and open door policies.