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# BEYOND THE STATE: FRAGMENTED SOVEREIGNTY AND INFORMAL GOVERNANCE IN POST-CONFLICT NEPAL

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## Abstract

Post-conflict societies frequently resist state-centric notions of governance and sovereignty as authoritative capacity often extends across and beyond the state across a range of formal and informal actors. This book addresses fragmented sovereignty and informal governance in post-conflict Nepal by examining Nepal as the principal focus of the study, rather than merely one more country used to illustrate governance debates. Post Comprehensive Peace Agreement (2006) Nepal has experienced dramatic political change, including its transformation from monarchy to federal democratic republic, major institutional restructuring and an engagement with perennial questions of inclusion and state legitimacy. Even so, governance in Nepal is defined by competing power brokers between and beyond the state which include, amongst others: state institutions, political parties, local elites, ethnic movements, civil society and external development agents, and international relations. Building on literature on governance, Political Economy, and Post-Conflict State building, I conceptualise fragmented sovereignty, and propose and test a Fragmented Sovereignty Model (FSM). By using a qualitative, single case-study based on the review of policy documents, institution reports and secondary literature I argue that the governance of contemporary Nepal, like other post-conflict states, cannot be accounted for using traditional state-centric perspectives. This book expands and enriches understanding of governance by viewing sovereignty not as a static concept but one which is continually renegotiated and negotiated in a complex, historically-attuned analytical framework.

## Keywords

Fragmented Sovereignty; Informal Governance; Post-Conflict Nepal; Hybrid Governance; State Transformation.

## 1. INTRODUCTION

### *1.1 Background*

Governing in a 'complex political environment': informal authority and sovereignty in post-conflict Nepal, have increasingly undermined the traditional model of the state as a unified, territorially sovereign actor in many post-conflict countries. In such cases, a focus on the formal implementation of peace agreements and institutional change has failed to produce cohesive and stable systems of governance. Instead, authority and legitimate power are widely diffused amongst a host of state and non-state actors leading to overlapping systems of governance and competing sources of legitimacy (Mac Ginty, 2011; Richmond, 2014; Risse, 2011). Correspondingly, in many post-conflict states, scholars are moving away from state-centric approaches in favor of analyzing how hybrid political orders and negotiated authorities are negotiated.

As a key post-conflict case, Nepal has been one of the most dramatic political and governance transformations seen in South Asia after the Comprehensive Peace Agreement (CPA) in 2006 following over a decade of civil war. The monarchy was abolished and Nepal became a federal democratic republic as part of broader institutional changes. This transition process also saw political integration of former Maoist combatants, promulgation of a new constitution in 2015 and development of federal governance systems-these changes were aimed at addressing exclusion, increasing political representation and fostering democratic governance (Lawoti, 2010; Muni, 2014; Upreti, 2014). The post-conflict transformation in Nepal however did not result in the consolidation of singular and contested state sovereignty. Nepal continues to experience governing process characterized by political bargaining between parties, bureaucracy, local governments, ethnic and regional groups, development agencies, businesses and external forces.

While formal state capacity expanded, informal processes based on patronage and mediation continue to be key drivers of governance outcomes (Adhikari, 2014; Nightingale & Ojha, 2021). Many forms of influence and power therefore operate across informal channels that circumvent governmental structures. The continuation of informal governance does not simply reflect state failure; it points to a deeper process in the organization and deployment of political power that is found in many post-conflict states and which often serves crucial functions in political bargains, resource allocation, and conflict mediation when formal institutions are unable to do so effectively (Helmke & Levitsky, 2004; Meagher, de Herdt, & Titeca, 2014).

As such, an analytic approach must take seriously this co-production of formal and informal authority in Nepal's post-conflict governance context. New understandings of sovereignty reject this bounded concept and consider it as relational, distributed and contested among multiple actors in different arenas (Krasner, 1999; Lund, 2016). This framework is especially helpful in analysing a post-conflict country like Nepal where

sovereignty is politically negotiated between various actors at various levels, ranging from the local government up to federal, as well as non-state actors including identity-based movements, development actors and regional geopolitical context.

### *1.2 Nepal Governance Literature and Research Gap*

Numerous scholarly works have analyzed Nepal's post-conflict transition in various ways. One set of literature focuses on peacebuilding and conflict transformation, looking at how political violence is managed, how the country reconstructs after conflict, and how it builds democracy (Upreti, 2014; Thapa & Ramsbotham, 2017). This research has informed our understanding of how it was possible to transition Nepal from violent conflict to competitive, democratic politics.

A second strand of research explores federalism, inclusion, and state restructuring, analyzing how political reform, ethnic movements, and changes in government structures-the federal restructurings-attempted to respond to persistent inequalities and the demands of previously excluded groups for political inclusion (Lawoti, 2010; Hachhethu, 2014; Muni, 2014).

The restructuring of the state has reshaped Nepali governance, to be sure, these scholars say. A third vein of research focuses on political settlements, negotiations among political elites, and democratic governance. Studies show that Nepal's formal institutions still do not reflect actual governance-politics happens in parallel, informal structures negotiated by political parties and elites (Adhikari, 2014; International Crisis Group, 2021). We still observe patterns of patronage, elite bargaining and coalitional politics that shape Nepal's governance.

A fourth set of research examines local governance and community-level institutions, showing that local actors perform many governance functions traditionally the purview of the state.

Studies of local development initiatives, community- forestry projects, and participatory governance find authority to be increasingly diffuse and often collaboratively negotiated among state agencies, local communities, donors, and civil society organizations (Nightingale & Ojha, 2021). In sum, we have developed sophisticated research on various aspects of post-conflict transformation in Nepal-peacebuilding and conflict transformation; federalism, state restructuring and inclusion; political settlements, elite bargaining and democratic politics; and local governance. Yet, a critical research gap remains: Our research, like other work in the field, does not address the analytical relationship among these different processes or consider these dynamics through the lens of fragmented sovereignty.

Most existing studies analyze the various forms and processes of governance-such as, political settlements, state restructuring, informal institutions, and local governance-separately. They provide excellent accounts of how political actors attempt to govern in specific issue areas or how governance is mediated by formal state structures and/or informal

agreements; but they do not, typically, engage the theoretical question of how these numerous actors and institutions-formal and informal-share, negotiate and dispute sovereign authority in Nepal. While the literature has certainly begun to describe how state and non-state actors are involved in shared governance processes in Nepal, it generally overlooks the theoretical implication: this shared engagement results in a fragmented sovereign space.

In short, then, there is little scholarship on how politics of fragmented sovereignty has made these diverse governances possible in post-conflict Nepal.

### *1.3 Problem Statement*

Though the governance landscape of Nepal has been subjected to institutional reform and reconstruction in the context of the transition in the post-2006 political system; competing sources of authority, multi-level and overlapping systems of governance, and continuations of political patronage through informal political networks continue to inform Nepal's governance arrangements. Contemporary state-centred models still lack the analytical capacity to account for these issues; for it presumes concentrated and authoritative rule located exclusively in state institutions alone, when in reality, governance arrangements respond to interactions between the political system, the state bureaucracy, local governance actors, social and political movements, development agencies, the private sector, and geopolitical actors. This gap between the presuppositions of governance frameworks and actual governance arrangements raises an analytical puzzle. Post-conflict models in Nepal may succeed to illuminate several dimensions of governance arrangements but fail to address how numerous actors in tandem wield their respective powers to shape Nepal's' emerging governance systems, raising demand for alternative governance models to better understand the governance in conditions of dispersed and contested power-based relationships.

### *1.4 Research Question*

Our guiding research question is: What does fragmented sovereignty mean for governance in post-conflict Nepal? In answering this main question, this study also addresses three related subquestions:

(1) Which factors – institutional, political, social and international – explain the emergence of fragmented sovereignty in post-conflict Nepal?

(2) How is sovereignty negotiated between formal and informal political and non-state actors and their respective roles in authority creation and in the policy-making process?

(3) Under what conditions can we understand fragmented sovereignty as an analytical concept for post-conflict governance?

*1.5 Research Objectives*

This study addresses these research questions and seeks to:

(1) identify and explore the various institutional, political, social, and international sources of fractured sovereignty in Nepal's post-conflict context;

(2) to unpack and discuss the dynamics of interaction between the formal, state-based political order and various other non-state, local, and informal actors involved in the provision of governance, or a shadow of that governance.

(3) to develop and put into practice the Fragmented Sovereignty Model (FSM), as a useful framework for conceptualizing the relationship between the two different domains of authority; (4) to contribute to a wider theoretical understanding of how sovereignty, political order, and state transformation work within the context of fragile states post-conflict conditions.

*1.6 Justification for the Fragmented Sovereignty Model (FSM)*

In this study, I propose the FSM to address the limitations of existing theoretical models of governance. Existing analyses of state-building, political settlements, or the political economy of fragile states provide valuable insights on specific aspects of political order, but fail to adequately capture the complexities and multi-centric nature of authority and policy-making within hybrid governance systems. FSM, presented and defined in the subsequent chapter, conceives of sovereignty not as an inalienable, indivisible attribute of the state but as a dynamic and contested process that operates across informal and formal networks and institutions.

It identifies and conceptualises the various informal and formal networks of power and authority in a given territory and shows how and where sovereign claims are contested, distributed and/or made exclusive of others through complex social, political and institutional interactions between state, party and non-state actors (both legal and informal).

The proposed FSM thus uses the case of Nepal to identify how this notion works out in the practice of government in specific historical, social, and political context of a post-conflict society, making of Nepal the 'subject' rather than object of its analysis and placing the understanding of informality into the centre of the analysis.

*1.7 Significance of the Study*

This study makes a novel contribution to the ongoing debates on governance. It aims at:(1) bringing fragmented sovereignty as an analytical framework for the study of post-conflict states and governance systems, (2) integrating disparate conceptual andempirical literatures on Nepal – peace, federalism, political settlements, civil society andinformality – into a new

framework for analysis and (3) offering insights that willbe useful for scholars, policy-makers and development practitioners. My overall argument is that state-based conceptualizations of governance alone cannot account for the intricacies of political process in post-conflict Nepal; an FSM is needed to understand how authority is fragmented across formal and informal structures of governance and by how various state and non-state actors engage with such processes in making and producing a given post-conflictpolitical order.

## 2. LITERATURE REVIEW

### *2.1 Global Literature: Fragile States, Hybrid Governance, Political Settlements, and Sovereignty*

The state-building implications of post-conflict settings have also led to a lively debate about the nature of state authority, sovereignty and institutional legitimacy. State-building theorisation tends to assume that there must be central authority to organise politics and society in the defined territory of the state (Weber, 1978; Fukuyama, 2004).

From this perspective, the reason why such states are fragile is that they do not have sufficient state-level capacity to provide public goods or to enforce rules effectively.1 Many, though, are concerned that this framing does not adequately represent post-conflict realities, in which a number of forms of governance that involve state institutions, but also tribal institutions, religious authorities, civil society and political actors and external international actors coexist with the state to ensure some form of public provision or stability (North et al., 2009; Risse, 2011).

Governance arises through the interplay of manyactorsrather than solely through the authority of the state. This was the impetus for theory aroundhybrid governance and hybrid political orders( Boege et al. 2009; Mac Ginty, 2011). This literature highlights how governance takes place in a mix of formal, state institutions and informal, customary, religious and community level political authorities,and how those mixed, informal arrangementsare not to be seen as an interim phase in a process of constructing state governance, but a durable and important part of political order.

A related line of scholarship, the political settlement perspective, focuses on elite bargains and power-sharing arrangements as the drivers of political development.

A political settlement is described as a formal or informal agreement among a society's dominant elites that distributes resources and establishes conditions of access to and exclusion of the population from those resources (Khan, 2010). A number of scholars have found that the durability of politics has less to do with the strength of formal institutions and more to do with the nature of political settlements. Recent debates about sovereignty have also increasingly problematized the idea of state sovereignty.

Sovereignty is no longer conceived as unified and territorial, but is seen as fragmented, relational and negotiated (Krasner, 1999; Lund, 2016). This notion of sovereignty exists

through multiple layers of overlapping networks that include state institutions, but also other non-state actors both locally and internationally.

*2.2 South Asian Literature: Governance and Authority in Nepal*

Afghanistan, Sri Lanka, Pakistan and India South Asia offers an excellent research location for exploring fragmented sovereignty and post-conflict governance because of the number of countries in the region that have experienced civil conflict, state restructuring and challenges to their sovereignty.

Afghanistan scholars argue that state institutions co-exist alongside tribal authorities, religious leaders, warlords and international actors in a complex governance system that frequently operates through informal channels as much as it does through formal state institutions (Barfield, 2010; Suhrke, 2011).

The legacy of Sri Lanka's civil conflict still shapes the country's post-war governance, which is marked by persistent tension between state authority, ethno-nationalist mobilisation, inclusion and accountability (Goodhand et al. 2011). Governance has not become less fractured since the end of the war. The political system in Pakistan is dominated by interaction among political and military institutions,religious authorities, tribal leaders and political networks of patronage; informality plays a critical role in how politics and governance operate (Jalal, 2014).

Studies of Indian governance document how federalism, but also political parties, patronage politics,caste networks and local governments shape authority arrangements (Chandra, 2004).

Indeed, it might even be argued that governance has always taken place through a variety of informal networks. Among the countries in South Asia, Nepal combines many of the features common across these countries: post-conflict transformation, federal re-organization, ethnic Mobilization and the impact of identity movements and external intervention. Critically, unlike the majority of these case studies, the experience of Nepal's military transition was by negotiation and resulted in democratic transition rather than extended military rule, thus making operation of fragmented sovereignty in post-conflict Nepal appear more like mainstream democracy in compared to both Pakistan and Afghanistan.

*2.3 Literature on the Nepali case*

Post-Comprehensive Peace Agreement 2006 A considerable proportion of the literature pertains to post-Comprehensive Peace Accord process of transition and peace-making following the conclusion of the Comprehensive Peace Accord of 2006. The analysis of how conflict transited into political participation and democratic reforms, the process of conflict

transformation etc. Appears common across a range of studies such as Upreti 2014 and Thapa and Ramsbotham 2017.

Federal Restructuring and State Transformation Many researchers provide accounts of the federal re-organization of Nepal. They argue that federalism aimed to address past exclusion and increase political participation.

However, studies also point to many challenges, such as co-ordination between central, regional and local levels and equitable distribution of resources. Local Governance with Increased role of municipalities Local government, in particular municipalities, has an important role to play after the 2006 CPA process. Researchers have shown the increased role of municipalities in development planning, democratic participation, and service delivery (e.g. Shrestha, 2020).

The impact of federalism varies significantly across the different regions of the country, however. Informal Institutions Formal governance practices are heavily supplemented by a range of informal political practices. From community forestry to dispute resolution and local civic organizations, there are a variety of informal institutions that often facilitate, shape and even substitute for formal governance practices (e.g. Nightingale and Ojha, 2021).

Patronage Politics and Elite Capture The operation of networks of patronage and the influence of elite groups in political decision-making are common features in Nepalese politics, involving political actors, bureaucracy and business interests (Adhikari, 2014). Indeed, the literature stresses how patronage,elite capture of state and local institutions impacts development, public service provision and accountability. Ethnic Mobilization and Identity Politics The period after the 2006 CPA saw numerous ethnic and regional mobilization initiatives, notably among the Janajati, Madhesi and Tharu ethnic groups and those associated with the identity-based political movement.

These movements have played a significant role in constitution making and the federal process and has influenced political decision-making and authority throughout Nepal (Lawoti, 2010).

While the above categories cover many important themes regarding Nepal, it remains rare for these themes to be combined in analysis of how fragmented sovereignty has been enacted and exercised

*2.4 Critical Synthesis of Existing Literature*

| Author(s) | Focus | Key Findings | Limitation |
|---|---|---|---|
| Krasner (1999) | Sovereignty | Sovereignty is frequently contested and violated | Limited post-conflict application |
| Risse (2011) | Governance in Areas of Limited Statehood | Governance can occur beyond state institutions | Limited focus on Nepal |

| Author(s) | Focus | Key Findings | Limitation |
|---|---|---|---|
| Mac Ginty (2011) | Hybrid Governance | Formal and informal institutions coexist | Insufficient sovereignty analysis |
| Khan (2010) | Political Settlements | Elite bargains shape governance outcomes | Limited engagement with local governance |
| Lawoti (2010) | Federalism and Inclusion in Nepal | Identity politics reshaped state structures | Limited analysis of informal authority |
| Upreti (2014) | Nepal Peace Process | Peacebuilding transformed political institutions | Limited sovereignty perspective |
| Adhikari (2014) | Political Settlements in Nepal | Informal networks influence governance | Focused primarily on elite actors |
| Nightingale & Ojha (2021) | Informal Institutions | Community actors shape governance outcomes | Limited integration with sovereignty debates |

The comparative review reveals that existing scholarship contributes valuable insights into individual dimensions of governance but lacks a comprehensive framework capable of integrating sovereignty, informal governance, and post-conflict transformation.

*2.5 Research Gap and Need for the Fragmented Sovereignty Model (FSM)*

In the following review of the literature, I will highlight three significant deficiencies. First, studies on global sovereignty demonstrate how states acquire, or lose, authority, yet offer little insight into how informal institutions contribute to governance decisions and results. Second, research into informal governance offers rich descriptions of the politics of patron-client networks, of local political order, and community power, without linking these to arguments about state sovereignty or transformation.

Third, the specialized scholarship of Nepal has offered significant insights on peace, federation, political settlement, local governance,elite power and identitypolitics, but typically has treated these themes independently of how they intersect in terms of authority relations.

Consequently, scholars have not produced an integrated model of authority with which to analyze the ways a variety of actors have sought to gain, exercise and manage governance responsibilities in post-conflict Nepal. The questions about authority were never what kind, if any, was vested in different entities in Nepal during the post-conflict period, but how the interplay between, interalia, formal institutions, informal structures, political elites, community representatives, identity-based political and civil society actors, international donors, and geopolitical actors has been contributing to governance decisions and the political outcomes. I have therefore constructed a set of the 18 months in question of a model of fragmented sovereignty. My intention was, however, to have built and to apply a concept

of "fragmented sovereignty" within which the post-war experiences in Nepal are not so much illustrative of a model, as they are foundational to its elaboration and application.

## 3. THEORETICAL FRAMEWORK

### *3.1 Core Theoretical Foundations*

Explaining post-conflict fragmented sovereignty in Nepal necessitates an analytical frame which can make sense of how structural inequalities, dispersed powers and contested legitimacies play themselves out. Drawing not upon one particular theoretical perspective but from the analytical resources of Marxist political economy, Foucauldian governmentality and Gramscian hegemony, and in light of debates about political settlements, informal institutions and post-conflict governance in South Asia, this analysis uses the following set of analytical tools to develop an account of the making, negotiation and struggle over authority in formal and informal space.

#### Marxist Political Economy: Power, Class, and Political Settlements

Marxist political economy is that political power cannot be disembedded from the underlying economic basis and the distribution of resources (Harvey, 2010). They are not in view of the state as a neutral body but that structures of governance tend to reflect the interests of dominant societal and economic groups.In post conflict settings, restructuring of economy creates space for new power elite consolidation. And political settlements scholarship further extends this by pointing out that the outcome of governance is shaped by bargains between a political elite that controls access to resources and institutions (Khan, 2010). These settlements are frequently at both formal and informal levels.

Post-conflict governance has been significantly shaped by political settlements among significant parties, economic elites and state structures. After the CPA in 2006, although democratic transition has ended authoritarian rule, political elites have not lost their influence, and the form of governance has merely transformed, with patronage–clientage networks being prevalent through which political positions, procurement and other services are awarded, and development projects and other resources are allocated, creating fragmented sovereignty due not just to fragmentation but also the unequal division of economic power and political clout. This can help account for how such reforms to formal institution have not yielded inclusive governance, and the concentration of authority in the hands of networks of elites which can continue to exercise power at both constitutional and non-constitutional levels resulting in a form of negotiated sovereignty instead of centralized sovereignty.

#### Foucault: Governmentality, Diffused Power, and Informal Governance

Although Marxism describes structural inequality, Foucauldian thought analyzes distributed and relative power relationships. He believed that no single locus of power has dominance but rather flows across all relationships-discourses, practices, institutions, and knowledge systems (Foucault, 1980). Governance therefore transcends the government.

There are myriad ways in which populations are rendered as governable. The concept of governmentality proves to be helpful for analyzing governance following conflict. Governmentality includes practices, technologies, and rationalities through which particular populations are managed. Governance often involves the collaboration of governments, international bodies, NGOs, community-based organizations, and development actors (Dean, 2010). The political economy of post conflict governance in Nepal shows how numerous players – government, donors, NGOs, community-based organizations – were all shaping how the populace were rendered governable. Community based governance analyses shows that governance relationships are mediated through arrangements where boundaries between state and society may become indistinct (Nightingale & Ojha, 2021). Distributed sovereignty arises because so many actors participate in the same governmental relationships. Power is exerted by means of development agendas, administrative procedures, community level associations, expert committees, intellectual discourses and policies. There is a field of governing practices in which numerous entities interact simultaneously in governing population groups.

**Gramsci: Hegemony, Legitimacy, and Ethnic Politics**

Gramsci's concept of hegemony goes beyond the previous notions by incorporating consent, ideology and legitimacy (Gramsci, 1971). Not only relies on coercion for maintaining its position, but also depends on the creation and maintenance of social consensus regarding legitimate order. In post conflict societies there is usually competition for developing alternative projects to redefine meaning of citizenship, representation, development and nationhood. Hence governance always entails contest over legitimacy along with the contest over institution building (Lawoti, 2010). Post conflict situation of Nepal displays such context where ethnicity, Janajati movements, Madhesi community, various parties and civil society actors contest against each other to mould meaning of federalism, representation and transformation of state in the country. Debates around constitution in Nepal after 2006 have shown competing ideologies about visions of nation and whose will prevail. From the viewpoint of Gramsci, fragmented sovereignty is also ideological and fragmentation comes in the shape of different sources of legitimacy-election result, ethnicity, past experience, development discourse or social consensus within community. Therefore, authority is being negotiated rather than monopolised by any single actor of society, let alone, the state.

*3.2 South Asian Perspectives on Governance and Authority*

While Marx, Foucault, and Gramsci offer useful theoretical frameworks, their notions need modification to adequately explain the reality of governance in South Asia. Research in the region has repeatedly shown governance in South Asia largely operating through informal institutions, political settlements, patronage, and contested authority in ways that often transcend or circumvent the formal machinery of the state.135 Evidence from India shows how patronage relations, caste politics, and local brokers[brokers] mediate governance outputs (Chandra, 2004); studies of Pakistan show how official institutions are undermined or complimented by military, religious, and tribal spheres of authority (Jalal, 2014); in Afghanistan work underscores how hybrid arrangements involve state apparatus, tribal linkages, customary authorities, and international powers(Barfield,2010). Therefore, most if not all governance arrangements in South Asia feature some kind of overlap in authority and informal linkages for political negotiations. Like many other South Asian Countries Nepal too represents the overlapping of these powers while having special peculiarities to do with its peace process, federalization, and identity politics.

### *3.3 Conceptual Definitions*

**Fragmented Sovereignty**

Fragmented sovereignty is where sovereignty is no longer considered the monopoly power of the state, and instead it is located amongst a range of actors, institutions, and sites of governance. Sovereignty is thus imagined as a contested process between competing claims to legitimacy and authority.

**Informal Governance**

Informal governance describes networks, practices, and institutions beyond formal laws that nevertheless shape policy choices, resource allocation, and governance results. Examples include informal patronage, elite negotiations, local negotiation councils and community systems.

**Hybrid Authority**

A 'Hybrid authority' therefore is governance arrangements that arise out of the negotiations among state authorities and informal powerholders. It is through a process of consultation and negotiation, conducted between various actors of governance, rather than exclusively on the state's behalf that authority arises.

### *3.4 Application of Theory to Nepal*

The holistic theoretical framework that we construct provides an analytical narrative of governance in post-conflict Nepal. From a Marxist- political economy standpoint we highlight how patron-client and informal political settlements can explain how elites persist in positions of power in the face of the formal reforms that we study. Elites are able to harness

resources and organizational structures from their parties and their alliances to access and distribute state and public resources. The Foucaultian lens allows us to consider a broader definition of the state, including for example development agencies, NGOs, community groups and local networks in addition to formal institutions in the study of governance and authority which are spread across multiple channels of power. The Gramscian analysis helps us to analyse the constant process of struggle over legitimacy that goes on between parties, ethnic groups, civil society organisations and state institutions. These are reflected in different competing and coexisting concepts of inclusion, federalism, or what it means to be a nation. Taken together these can tell us, for example, why governance in Nepal is not primarily a question of the state, why it cannot be understood purely in terms of the state, or where authority lies in the political, economic and social spheres. This gives us the basis for an alternative framework in which patronage politics, political settlements, informality, ethnic mobilization and international intervention work in tandem together to produce a situation of 'fragmented sovereignty'.

## 4. METHODOLOGY

### *4.1 Research Design*

We use a qualitative interpretive case study and conceptual theory-building analytical approach, rather than seeking to test causal claims statistically, but aims to offer theoretically underpinned explanatory insights into fractured sovereignty and informal governance in Nepal's post conflict landscape, so it combines conceptual analysis and systematic study of secondary empirical data. Qualitative case study has many advantages, as governance issues in many countries are far more complicated than can be addressed by the hypotheses and tests for the statistically minded (Yin, 2018); it is suitable for the exploration of processes and how political power is exercised in varying arenas with many, if often intersecting institutions, and in contexts of complex power relationships. Nepal provides a prime example via which to study wider debates around sovereignty, governance and the reshaping of post-conflict statehood.

In applying interpretive analysis, we acknowledge that governability is not only created by formal institutions but also by meaning, practices, relationship and forms of legitimacy as they shape how individuals and organizations exercise and negotiate power with state and non-state actors.

Nepal is chosen not as an interesting illustrative example, but as a theoretically relevant case through which to create wider understandings of fragmented sovereignty. Based on the empirics of Nepal we therefore developed the Fragmented Sovereignty Model (FSM) as outlined in this research.

### *4.2 Case Selection: Why Nepal?*

Case selection is based on three interrelated criteria that make Nepal a theoretically valuable case for examining fragmented sovereignty.

**Post-Conflict Transition**

Nepal underwent a 10-year armed conflict from 1996-2006 which concluded with a negotiated peace agreement – The Comprehensive Peace Agreement (CPA) – in 2006. This process both introduced new formal political institutions, while many of the informal power structures remained. This makes it a very useful site from which to explore reconstruction of authority after conflict.

**Federal Restructuring**

Federalization in accordance with the 2015 Constitution reshaped the structure of Nepal's governance system. A process of decentralizing the state powers between the federal government, six provincial governments and 753 local units was designed with increased prospects for political participation, however entangling with intergovernmental relationships and interaction complexities. Political restructuring thus is a crucial set to context for an inquiry on the fragmentation and decentralization of political power.

**Hybrid Governance Environment**

Governance in Nepal is shaped by interactions among formal state institutions, political parties, local governments, civil society organizations, ethnic movements, development partners, community institutions, and geopolitical actors. This coexistence of formal and informal governance mechanisms makes Nepal an ideal case for examining hybrid authority and fragmented sovereignty.

Taken together, these characteristics make Nepal a critical case for understanding how governance operates under conditions of overlapping authority and contested legitimacy.

*4.3 Data Sources*

The study relies on multiple sources of secondary qualitative data to ensure analytical rigor and triangulation.

**Academic Literature**

The study rests on a theoretical and empirically-oriented body of literature composed of articles published in peer-reviewed journals, books, edited volumes and doctoral

dissertations. Emphasis will be placed on the literatures of sovereignty, governance, political settlement, federalism, post-conflict reconstruction, informal institutions, and Nepali politics.

**Government Documents**

Formal institutions and state-building are investigated by drawing from government reports, constitution, policy documents, federal governance legislation, parliamentary proceedings, and planning papers.

Key sources include:

- Constitution of Nepal (2015)
- National Planning Commission reports
- Ministry of Federal Affairs and General Administration reports
- Government policy and governance documents

**International Organization Reports**

International organizations provide extensive documentation of governance reforms, institutional performance, and post-conflict development.

These include:

- United Nations Development Programme (UNDP) reports
- World Bank governance assessments
- OECD governance and state-building reports
- United Nations reports on peacebuilding and democratic governance

**Policy and Think-Tank Reports**

Independent assessments offer valuable insights into governance dynamics, political settlements, and institutional challenges.

Key sources include:

- International Crisis Group reports
- International IDEA publications
- Asia Foundation reports
- Governance and peacebuilding policy analyses

**Civil Society and Development Reports**

Reports of NGOs, community-based organisations and development partners document local governance issues, practices, participation and accountability mechanisms and informal institutional arrangements.

*4.4 Evidence Selection Strategy*

To strengthen analytical validity, evidence was selected according to four criteria:

**Relevance**

Sources were included only when directly related to post-conflict governance, sovereignty, federalism, informal institutions, political settlements, or governance reforms in Nepal.

**Credibility**

Priority was given to peer-reviewed academic publications, official government documents, internationally recognized policy reports, and publications produced by reputable international organizations.

**Theoretical Contribution**

Sources were selected based on their ability to contribute to understanding authority, legitimacy, governance processes, and state transformation.

**Temporal Coverage**

The study primarily focuses on the post-2006 period following the Comprehensive Peace Agreement, while also incorporating historical sources where necessary to explain long-term institutional developments.

*4.5 Analytical Strategy*

The analysis proceeds through three interconnected stages.

**Stage 1: Thematic Literature Analysis**
The first stage involves reviewing and categorizing literature into major themes, including sovereignty, hybrid governance, political settlements, informal institutions, federal restructuring, ethnic mobilization, and post-conflict governance.

**Stage 2: Comparative Interpretation**

The second stage compares insights from global governance literature with evidence from Nepal. This process identifies areas of convergence, divergence, and conceptual limitations within existing theoretical frameworks.

**Stage 3: Theory Development**

The final stage synthesizes theoretical and empirical insights to develop the Fragmented Sovereignty Model (FSM). The model explains how formal institutions, informal networks, political elites, social movements, local actors, and international influences interact to shape governance outcomes in post-conflict Nepal.

*4.6 Analytical Assumptions*

The study is based on four key assumptions:

**The State Is Not a Unitary Actor**

State institutions contain multiple actors, interests, and competing agendas. Governance therefore emerges from interactions both within and beyond the state.

**Authority Is Relational**

Authority is produced through relationships and interactions rather than being possessed exclusively by any single actor.

**Governance Extends Beyond Formal Institutions**

Political authority is exercised through both formal governmental structures and informal governance arrangements.

**Sovereignty Is Dynamic and Negotiated**

Sovereignty is not fixed or indivisible but continuously negotiated among multiple actors operating at different levels of governance.

*4.7 Scope and Limitations*

The scope of the research concentrates on the post-conflict phase in Nepal from 2006 until the current day and explores governance aspects related to the process of federal restructuring, informal institutions, political settlements and power decentralization. As the research is a qualitative conceptual case study, it does not draw on any original, empirical data such as surveys, interviews or field work. The findings should thus be regarded as theoretical and analytical, not as statistically generalizable.

The multiple data used, combined with a structured triangulation approach, enhances the validity of the analysis.

Fragmented Sovereignty Model (FSM) It is a case specific conceptual model designed for analytic purposes, not a global, universal theory. It should, in due course, facilitate the comparative analysis of governance in other post-conflict and similar settings with overlapping authority systems.

## 5. ANALYSIS & DISCUSSION

### *5.1 Fragmented Sovereignty in Nepal*

Such a fragmented sovereignty is manifested in the fragmented allocation of power in political institutions, administrative sectors and security governance bodies. These fragments do not exist in isolation; they mutually interact to form complex centres of fragmented, sometimes even contesting authority.

#### Political Fragmentation

Distributed Political Power through Volatile Coalitions and Party Factions Within parties, leadership struggles and factions divide policy agendas, and coalition bargains weaken long-term policy coherence between the post-2006 era of changing governments. Party elites engage in competitive coalitions where political negotiations over ministerial appointments, policy priorities and state assets dominate the formal program or policy focus of governments, limiting the administrative sphere and the autonomy of the bureaucracy, as well as reinforcing the politics of the short-run. Internal party organizations function with systems of patronage as leadership blocs decide which candidates are fielded for office and who receives party assignments and subsequent state jobs. While the introduction of federalism was a means to redistribute state power, the intersection of provincial and local level governance creates uncertainty over the jurisdiction of different levels and fosters dependence of locals on federal transfers to their provinces, while limiting provincial administrative autonomy and control.

#### Administrative Fragmentation

The administrative capacity of states differs across national and sub-national tiers. Local governments with greater financial strength and greater capacity in technical skills or the possession of technically competent staff have a greater ability to implement programs whereas rural local government remains reliance on transfers from national to provincial to local levels, supported by aid projects. These differences in administrative capacity therefore generate different patterns of governance in which, as can be seen in planning, education, health coordination and public works development, access to essential services is determined largely by how competent or strong local administration is, not by what universal standards national standards may mandate. Local level bureaucratic cooperation between different

levels of state government is patchy and, especially during the planning and procurement stages, results in time delays, duplication of responsibilities and a fragmentation of the state in actual operation.

**Security Fragmentation**

Authority over Security Governance: A Fractured and Distributed Phenomenon Nepal has no widespread civil war, though the localized security governance still highlights features of an informal arrangement of power through the struggles on border management, irregular cross-border business and sporadic criminal networks in border areas. On cross-border governance, particularly with India's open borders has also made economic mobility possible as well as the management problem with border related challenges that include both the established criminal and informal economies, which has resulted to informal regulatory spaces which is not wholly regulated by state actor/agents. Thus the interconnections of Nepal's political instability, administrative disparities and the existing phenomenon of security pluralism imply that this concept of 'sovereignty is not one homogeneous entity'.

*5.2 International Actors and External Sovereignty Influence*

External actors play a structural role in shaping Nepal's sovereignty through financial dependence, infrastructure investment, and policy conditionalities.

**India: Political and Structural Influence**

Nepal's geographical proximity, open border regime and shared economic ties with India, have made New Delhi a critical external influence on Kathmandu's internal governance. Political leverage has been built through the negotiation and execution of constitution-building processes, notably the 2015 Constitution. Influence has been exercised on discussions around issues of federal boundaries, electoral systems and constitutional guarantees to promote inclusive governance through both diplomatic pressure and indirect channels.

Border politics is another aspect that underscores New Delhi's proximity influence. The open border system facilitating easy movement of labour and goods has given India a strong economic leverage over Nepal for fuel, consumer goods and access to sea through Indian ports and thereby increasing Kathmandu's economic dependence on the Indian market for its needs and transit facilities. India remains an essential structural component for Nepal's external dependence through its role as a primary destination of Nepali workers for employment and its control over the remittance corridor, fuel imports and supply routes.

**China: Infrastructure-Driven Engagement**

In terms of how its influence is exerted, this mainly takes place in the context of infra investment and engagement within the framework of BRI. China has become more visible through its role in building Nepal's infra in terms of roads and connectivity and powering it through its own projects. The infrastructure-based form of Chinese engagement may be quite different to the kind of embedded political ties India has had over long periods. While Beijing engages politically high-level diplomacy and state level engagement, it promotes a notion of non-interference and its infra engagement could result in long-term dependency of Nepal through the need for maintenance, financial obligations and debt.

**International Organizations**

The UN system, World Bank, ADB and UNDP as major multilateral agencies shape governance reforms and institutional change, especially through loan conditionality and technical assistance. The WB and ADB guide the priorities of public finance, allocation of resources to infrastructure, and institutional changes through their policy-related conditions for loans and their technical assistance in this area. The UN system also builds peace and contributes to processes like transition, reconciliation and electoral assistance which affects legitimacy during the transitional period of an institution.

UNDP in its assistance on decentralization strengthens capacity at the local level, affecting administrative bodies, as well as government policies as a part of it. Together these agents transfer decision-making powers to international institutions and create transnational networks.

*5.3 Elite Capture and Resource Control*

Elite capture in Nepal occurs at the intersection of state resource control, political appointment of officials and the distribution of development projects. National political elites influence both cabinet composition and bureaucratic appointment, often placing their supporters in administrative posts irrespective of merit, impacting the consistency of implementation of policies and the autonomy of public bureaucracy. At subnational and local level politics, allocations are mediated through private deal making between contractors and political elites. Infrastructure contracts - such as road building and urban municipal development projects- tend to be captured by a politically linked pool of contractors.

At the local level, captured municipalities' purchasing procedures can grant influence to elected officials in determining the contracting of projects, which is particularly manifest in rural municipalites with poor supervision structures and uneven outcomes. Even internationally funded projects fall into the nexus of elite networks with intermediary local actors mediating access to project funding, and therefore perpetuating rather than narrowing the gap between rich and poor. These dynamics reveal that elite capture is not a

series of discrete events but a structural dimension of governance reinforcing distributed forms of sovereignty across the state.

*5.4 Ethnic Mobilization and Identity-Based Sovereignty Claims*

Ethnic mobilization has been a central force in reshaping sovereignty debates in post-conflict Nepal.

**Madhesh Movement**

Movement in Madhesh-a significant challenge to centralized sovereignty- which called for proportional representation, federal restructuring and the acceptance of regional identity, have come in waves and have often been a key feature of the constitution drafting process through political negotiation and public protest which reveal underlying struggles for territorial control and social inclusion. The impact has partially re-ordered sovereign powers within a federal system of provinces but has failed to definitively settle issues around borders and power shares, suggesting an incomplete dispersal of sovereignty.

**Janajati Mobilization**

Indigenous Janajati peoples have called for an identity-based federalism, seeking recognition of their distinctiveness. The groups highlight language rights, representation in governmental institutions, and autonomy in the administration of local areas. Though some constitutional rights in relation to multiculturalism are in place, there are perceived disjunctions in the practice that generate struggle for both administrative and symbolic inclusion.

**Federal Restructuring Debates**

The federal restructuration has also institutionalized claims on identity within the state form and generated new conflicts between territorial and ethnic models of authority. It can be used to demonstrate that, in addition to its decentralization, sovereignty can be reconfigured through clashing claims about identity, generating layers of legitimation.

*5.5 Informal Governance and Hybrid Authority Systems*

Informal governance mechanisms remain central to how sovereignty is exercised in practice.

**Patronage Networks**

Patronage networks involve political elites, bureaucrats, entrepreneurs, contractors, and subaltern intermediaries. The former networks affect recruitment processes, tendering for projects and the supply of services. Political loyalties and local ties can affect entry into contracts for municipal construction projects rather than through formal competition for the bid process.

**Informal Dispute Resolution**

Land dispute, family and minor criminal cases are often mediated through widely applied community mediation systems in rural and semi-urban areas.The systems have the advantage of providing accessible justice, but it is functioning independently without legal controls, leading to varied standards in processes from place to place.

**Party-Based Governance**

The politics of party system during periods of coalition instability also represents an informal parallel government: Party cadres play a role in influencing local governance and mobilization of state resources for the benefit of supporters, and distribution of the welfare goods. Such blurred state-territory as a consequence of influence on the state by party may be interpreted in different ways.

**Local Power Brokers**

Local intermediaries become gate-keepers of public institutions and of citizenship. This influence rests on personal loyalty to the state, on the ownership of capital and, on a range of networks and connections. They represent important facilitators, to public service but also concentrates decision making in their hands by producing a formal dependence relationship between them and the citizen.

**Table 1. FSM Actor Influence Matrix**

| Actor Type | Influence Level | Criteria | Justification |
|---|---|---|---|
| State Institutions | High | Constitutional authority + coercive capacity + fiscal control | Core authority in formal governance systems (Ostrom, 2010; World Bank, 2022) |
| Political Parties | High | Government formation + legislative control + appointment power | Central role in political settlement and elite bargaining (Zürcher, 2022) |

| Actor Type | Influence Level | Criteria | Justification |
|---|---|---|---|
| Local Elites | High | Resource mediation + procurement control + informal authority | Embedded elite capture in hybrid governance systems (Meagher et al., 2021; Goodhand et al., 2022) |
| Civil Society Groups | Medium | Advocacy + monitoring + agenda influence | Influence through accountability and participation mechanisms (Helmke & Levitsky, 2020) |
| International Actors | High | Funding conditionality + policy transfer + institutional shaping | External governance influence via aid and norm diffusion (Sending et al., 2020; World Bank, 2022) |
| Community Organizations | Medium | Local dispute resolution + service mediation | Hybrid local governance authority in post-conflict systems (Lund, 2022) |
| Citizens | Variable | Electoral participation + protest capacity + legitimacy formation | Context-dependent influence in hybrid political orders (Ostrom, 2010; Zürcher, 2022) |

## 6. FRAGMENTED SOVEREIGNTY MODEL (FSM): NEPAL-BASED OPERATIONALIZATION

Here, the FSM was implemented as an analytical structure, relating structural factors, mediation by governance and outcome factors. Furthermore, rather than purely theoretical models, this chapter applies the FSM to Nepal's post-conflict governance setting to reflect empirical reality. In line with literature on hybrid governance, informal institutions and negotiated authority, this study conceives of power distributed between the informal and formal networks (Helmke & Levitsky 2020; Meagher et al. 2021; Zrcher 2022).

### *6.1 Operational Definitions*

**Fragmented Sovereignty (FS):**

A condition in which authority over governance functions (policy, resources, security, legitimacy) is distributed across overlapping formal and informal actors, resulting in non-monopolized state control (Lund, 2022).

**Input Structures:**

Structural conditions shaping governance distribution, including political instability, social cleavages, and external dependency.

**Governance Processes:**

Mechanisms through which authority is exercised, including patronage, informal networks, and hybrid institutional arrangements.

**Outcomes:**

Observable governance effects such as weakened institutional coherence, uneven service delivery, and contested legitimacy.

*6.2 FSM Causal Pathways (Nepal Empirical Anchoring)*

**1. Political Pathway**

**Coalition Instability + Party Factionalism (Input)**
↓
**Informal Bargaining + Patronage Allocation (Process)**
↓
**Weak Policy Continuity + Institutional Overlap (Outcome)**
↓
**Fragmented Sovereign Authority**

Political settlements in post-conflict systems often produce negotiated rather than institutionalized authority structures (Zürcher, 2022). In Nepal, frequent coalition shifts reinforce informal bargaining over formal rule adherence.

**2. Economic Pathway**

**Weak Regulatory Enforcement + Informal Economy Expansion (Input)**
↓
**Elite Capture + Contractor Networks (Process)**
↓
**Uneven Resource Distribution (Outcome)**
↓
**Economic Fragmentation of Sovereignty**

Hybrid governance literature emphasizes that informal economies are embedded within political structures rather than external to them (Meagher et al., 2021; Goodhand et al., 2022).

**3. Administrative Pathway**

**Uneven Federal Capacity + Bureaucratic Coordination Gaps (Input)**
↓
**Local Mediation by Power Brokers (Process)**
↓
**Inconsistent Service Delivery (Outcome)**
↓
**Administrative Fragmentation**

Decentralized governance systems often produce uneven institutional capacity across territorial units (World Bank, 2022; Ostrom, 2010).

**4. Social-Identity Pathway**

**Ethnic Diversity + Post-Conflict Inclusion Demands (Input)**
↓
**Identity-Based Mobilization (Process)**
↓
**Federal Contestation + Competing Legitimacies (Outcome)**
↓
**Sociopolitical Fragmentation of Sovereignty**

Identity-based mobilization reshapes state legitimacy and territorial governance arrangements in post-conflict transitions (Lund, 2022).

**5. External Governance Pathway**

**Aid Dependency + Geopolitical Engagement (Input)**
↓
**Policy Conditionality + Infrastructure Influence (Process)**
↓
**Shared Decision-Making with External Actors (Outcome)**
↓
**Transnational Fragmentation of Sovereignty**

External actors shape domestic governance through financial and normative influence, dispersing authority beyond national institutions (Sending et al., 2020; World Bank, 2022).

*6.3 FSM Integrated Causal Model (Text Diagram)*

**Fragmented Sovereignty Model (FSM): Nepal Application**

**INPUT STRUCTURES**

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**Political instability**
**Economic informality**
**Administrative unevenness**
**Ethnic mobilization**
**External dependency**

---

↓

**GOVERNANCE PROCESSES**

---

**Patronage networks**
**Elite capture mechanisms**
**Informal dispute resolution**
**Identity-based bargaining**
**Transnational policy influence**

---

↓

**INTERMEDIATE DYNAMICS**

---

**Hybrid institutions**
**Parallel authority systems**
**Weak bureaucratic autonomy**
**Negotiated legitimacy**

---

↓

**OUTCOMES**

---

**Fragmented sovereignty**
**Uneven service delivery**
**Overlapping authority systems**
**Contested state legitimacy**

*6.4 Empirical Validation Logic (Nepal Case Alignment)*

FSM gains empirical support through observable governance patterns in Nepal:

- Coalition instability → repeated cabinet reshuffles → disrupted policy cycles
- Informal economy expansion → contractor-based procurement → uneven development
- Federal transition → capacity gaps across municipalities → service inconsistency
- Madhesh and Janajati mobilization → competing constitutional claims → legitimacy fragmentation
- Donor-driven governance reforms → external conditionality → partial policy autonomy

These patterns collectively demonstrate that sovereignty is not unitary but distributed across interacting governance domains.

*6.5 Theoretical Positioning*

FSM aligns with three established theoretical traditions:

- **Hybrid governance theory** (Meagher et al., 2021; Helmke & Levitsky, 2020)
- **Relational sovereignty frameworks** (Lund, 2022)
- **Multi-level governance systems** (Ostrom, 2010; World Bank, 2022)

However, FSM extends these frameworks by explicitly integrating causal pathways linking structural inputs to fragmented sovereignty outcomes in a post-conflict federal setting.

## 7. CONCLUSION

This paper revisits the concept of sovereignty through the Lens of Fragmented Sovereignty Model (FSM) by studying how sovereignty is actually practiced in the post-conflict situation of Nepal. The paper shows that sovereignty in Nepal is neither centrally accumulated but is spread over multiple institutions (political, administrative, economic, social and international). In practice, governmentality is characterized by interweaving of (sometimes contradictory) authorities both informal networks as well as the formal state institutions as well as external factors. In this sense, state exercise of control is partial, negotiate, mediated and conditional rather than an absolute one.

FSM reveals that the politics is the most important and visible site for fragmentation in Nepal, for instance coalition governments are fragile and the politics of party fragmentation as well as factional negotiations influences political processes to the large extent which determines the policy orientation than institutional continuity. Further administrative fragmentation occurs between federal, regional and local bodies; various local levels possess unequal strength which gives variations for its capability and effectiveness. In Nepal, there exists an economic fragmentation through informal mechanisms, elite captured

arrangements in service delivery and infrastructure development as well as unequal distribution of opportunity and access in terms of the political connection or network influence over the access of opportunity. Similarly, mobilization of identity-based groups (Madhesis and Janajadies etc.) re configure the patterns of politics and challenge the centralized system. The participation of external forces such as India, China and multinational agencies like WB, ADB, UN have a tendency to disperse the powers and influence over governance in Nepal so sovereignty gets also fragmented to them.

This work theorizes FSM as an structured approach to study post-conflict governance and sovereignty that go beyond conventional approach of state centered concept of sovereignty. Furthermore, FSM contributes for the understanding on how authority is actualized in the complex post conflict politics of Nepal and offers policy suggestion to enhance the capacity building for coordination between various institutions, improve institutional capacity, minimize political networking and reduceinformality, and improve local administrative mechanism.

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