Democratising Nepal's Forest Sector Policy Process: The Role of Resistance by Community Federation

Ramesh Sunam*, Govinda Paudel*

* Australian National University, Canberra, Australia

Democratising Nepal's Forest Sector Policy Process: The Role of Resistance by Community Federation

■ *Ramesh Sunam* and Govinda Paudel**

* Australian National University, Canberra, Australia
Corresponding author: rameshsunam@gmail.com

Abstract This paper argues that Nepal's existing forest policy process is characterised by non-deliberative and techno-bureaucratic processes despite apparent recognition of the democratic approaches. Analysing two of the government's recent policy decisions that are related to community forestry and protected areas, we emphasise the complementary role of public contestation, critical research and the media in promoting deliberative policy processes.

Taking reference to deliberative governance perspective, we analyse how multiple factors shape the level of resistance and deliberation around forest policy processes. The key factors that influence deliberation include the institutional history of key actors, the nature, number and interest of actors associated with the process, and the media coverage of a policy issue. Alliance-led resistance, policy research and the media mobilisation have been emphasised here to contest inappropriate policy decisions and promote deliberative policy making culture.

Key words: bureaucratic hegemony, deliberation, policy making, resistance, governance.

INTRODUCTION

Despite several efforts to nurture people's participation in decision making, policy process in Nepal's forestry sector has largely been characterised by undemocratic, bureaucratic and non-deliberative processes. Still, the legacies of colonialism and monarchy have plagued policy making. However, in the recent years the views that techno-bureaucrats should craft policy and that the people are the passive recipients of policy are rapidly deteriorating (Blaikie and Springate-Baginski 2007; Malla 2001; Ojha *et al.* 2009). Globally, the increased focus has been placed on democratic, inclusive and deliberative approaches to policy making. This shift demands that actors contest the linear and rational tradition of policy making[1] and excessive bureaucratisation[2] in the policy formulation process. The actors need to contest

this 'rational policy making' because this approach assumes that the policy experts, principally the bureaucrats, can understand the problems and devise policies to address them. This approach undermines the political context and stakeholders' position in public policy processes (Marston 2004) and denies the 'constitutive role of discourse' (Hillyard and Watson 1996, quoted in Marston 2004). Equally important are the ways to promote democratisation and a deliberative culture of policy making, reorienting the focus on people from merely the 'subjects' to the 'citizens'.

How can citizens feel that they are governed by themselves? This question is a pertinent one in understanding deliberative governance. In Nepal's forestry sector, a few political elites, top-

---

[1] Rational policy making refers to a tradition in policy process which often relies on positivist research and objectivist knowledge of traditional policy makers (politicians and bureaucrats) and considers their voice as authoritative and can speak the 'truth', providing limited space for public voice in policy process.

[2] Bureaucratisation is understood here as mechanisms and processes that bureaucrats employ to establish that their knowledge and ideas are superior to that of others and accordingly deemphasise the role of other stakeholders.

ranked techno-bureaucrats, and donors/ International Non-governmental Organizations (INGOs) have frequently monopolised policy processes as their prerogatives, although the growth of strong civil society has started to challenge their working styles (Ojha *et al.* 2009). In this context, we examine here policy processes of forestry sector to search for ways to democratise policy space for citizens. To this end, we have analysed two recent policy decisions of the Government of Nepal (GoN) from a deliberative governance perspective. The two cases allow us to capture some level of diversity in policy processes within Nepal's forestry sector.

The first of our two cases concerns the proposal for amendment of the Forest Act 1993[3] and the other relates to the declaration of protected area (PA). These policy agendas were defined and shaped by techno-bureaucrats and the policy process was largely undemocratic and non-deliberative. Further, both decisions were directed to constrain the rights of local people over natural resources, with far reaching negative implications (Sunam *et al.* 2010). The former policy decision received widespread resistance, and was eventually withdrawn after one year of its public pronouncement. The other one, however, is being executed.

Our findings show that the degree of resistance and deliberation in the policy proposals depends on multiple factors and processes including the cultural history of the institutions, actors' interests, significance of the issue to the public, level of stake attached with the decision, to name a few. Civic action in Nepal's PA is comparatively weaker than community forestry and its scope is limited to areas in and around PAs. This could be one reason for weaker resistance in PA declaration. This paper suggests that contesting the bureaucratic and donor/

INGOs hegemony in policy making is complex and thus demands the support of multiple actors including bureaucrats and donors themselves. It suggests that resistance from diverse actors, deliberation, and the mobilisation of media can serve as strategies to reduce the control of bureaucracy and I/NGOs in the policy process, and at the same time, promote policy deliberation.

The remaining portion of this paper is structured into five sections. Section two presents an analytical framework – deliberative governance – that provides the basis for analysing government policy decisions in Section three Section four examines resistance and deliberation around the policy decisions. Section five explains the strategies mobilised to contest the policy decisions. Section six concludes the paper.

EXAMINING POLICY PROCESS THROUGH DELIBERATIVE GOVERNANCE PERSPECTIVE

Policy process is the means by which a policy is conceived, negotiated, expressed, and perhaps, brought into law and the procedures of implementation. Policy reform does not emerge as a linear response to 'truth talking to power', as a result of facts from research or other sources that reveal new truth and support alternative rational arguments for a policy change. Changes in policy are made through much more complex process, rather than the simplistic rationalist model (Blaikie and Springate-Baginski 2007). Why are some of the ideas and knowledge that spin in the policy/ research networks picked up and acted on, while others are ignored and disappear? This is perhaps the vital question to ask in policy process. It is important to explain the policy process itself – evasions, good faith, ambiguities

---

[3] The Forest Act amendment proposal was approved by the then Forest Minister on 16th July 2010. After one year, the proposal was withdrawn. The proposal with slight modification has been again pushed forward for approval. But this paper focuses on the former amendment proposal.

and strategies of main actors involved (Apthorpe and Gaspar 1996; Scott 1998; Shankland 2000).

Policy process is widely analysed in terms of the structures, institutions and actors involved and their relationships. Policy is not made only by political leaders in conjunction with the senior bureaucrats of the ministries and departments, but it is profoundly affected at all stages by a whole bunch of other actors, including other ministries, international funding institutions, the field staff, the judiciary, and civil society/social movements, NGOs, renowned scientists and intellectuals, local politicians, and businesses. Therefore, enquiry into forest policy should not confine itself to the ministry and departments in Kathmandu. At all stages of the policy process, the politics of knowledge production is an important element. This politics concerns with the production of 'authoritative knowledge' about forests. How is forestry knowledge produced and communicated to others? An answer to this question largely shapes policy outcomes.

Analysing policy process requires a certain framework. We employ here a deliberative governance lens to examine the policy process. The core element of this framework contend that a policy is legitimate only when it is made through reasoned debate among concerned citizens, free from strategic manipulation and deception (Dryzek 2000). When citizens debate, discuss and give consent to rules, they feel that they are governing themselves. Based on this framework and building on the work of Ojha *et al.* (2007), we consider four important questions to examine policy process. The first question is: who define(s) the policy agenda? This question does not confine itself to only identifying the actors, but also includes their interests, strategies and reasons behind the advocacy or resistance. The pressing issue is how far citizens are able to contribute to the policy debate along with bureaucrats and politicians.

The second question relates to the nature and extent of inclusiveness and unconstrained dialogue in the process of deliberation – transparency of agenda setting and propositions, citizens' access to debating forums, inclusion of all actors in debate, government influence, arguments in favour of the policy; consensus, majority decision or technocracy. This is the vital part of argumentation and reasoned debate in deliberative policy process. The third question concerns the formalisation of public opinion or who makes decision when there is no clear public opinion formed due to weak deliberation amongst elected politicians or administrative bodies. Once the policy decision is made, who influences its practice, how and to what extent are concerned groups of citizens, technical officials and politicians prepared to engage in learning from implementation or practice - compliance, resistance, disobedience and so forth?

CASE EXAMPLES: TWO FOREST POLICY DECISIONS OF GOVERNMENT OF NEPAL

This section provides a brief description of two policy decisions of the Government of Nepal (GoN). The first policy decision relates to the amendment proposal to revise the Forest Act 1993. The second decision addresses the declaration of PAs – two conservation areas and a national park. We also present here the rationale put forward by the government for both policy decisions and the policy processes it adopted.

Case 1: Proposal for the Amendment of Forest Act 1993

The Ministry of Forest and Soil Conservation (MoFSC), through the cabinet meeting on 16th July 2010, endorsed a proposal to amend the Forest Act 1993. The Act is widely regarded as an innovative legislation in providing the legal foundation for community forestry in Nepal. The key provisions of the proposed amendment,

amongst the numerous provisions, are: the introduction of a joint responsibility mechanism between community forest user groups (CFUGs) and government forestry officials in forest management plan preparation and implementation, and forest products marketing; imposing a 50% tax on the sale of forest products from community forests; limited use rights in *Churia*[4] forests; and limiting access and management rights of communities to forest resources.

To justify the proposal, MoFSC provided a number of rationales. These rationales touched on multiple facets of forest governance – economic, social and environmental. The MoFSC pointed to anecdotal cases of financial irregularities and illegal felling in some part of the Tarai and *Churia* region. The MoFSC claimed that it acted on the recommendations[5] from constitutional body and legislative committee to address these problems. The MoFSC argued 'the amendment is crucial as forests handed over to communities are not protected and managed properly (MoFSC 2010, pp.1). The Ministry also pushed the proposal for increasing state revenues from forests and increasing the role of the Department of Forest in overseeing community forestry.

While preparing the proposal, the MoFSC consulted only District Forest Officers (DFOs) to collect inputs for the amendment. Other important stakeholders and rightholders including the Federation of Community Forest Users Nepal (FECOFUN)[6] were not consulted. The amendment process was unilaterally driven by MoFSC despite the earlier practices of adopting multi-stakeholder processes and public deliberation while formulating Community Forestry Guidelines in 2008 and REDD-Readiness Preparation Proposal (RPP).

Case 2: Protected Area Declaration

On 4th December 2009, a week before the Copenhagen Climate Change Summit (COP 15), the GoN, through a cabinet meeting at Kalapathar near the Everest base camp, announced the establishment of three new PAs – Gaurishankar Conservation Area (GCA), Api Nampa Conservation Area and Banke National Park. The GCA covers an area of 2,179 square kilometres with 22 Village Development Committees (VDCs) of three districts, namely Dolakha, Ramechap and Sindhupalchok. About 12,000 households live inside the conservation area territory. The government, through a Nepal Gazette notice dated 19th July 2010, entrusted the management responsibility of the Gaurishankar Conservation Area to the National Trust for Nature Conservation (NTNC)[7] for a period of 20 years. However, after the strong protest from the local communities and FECOFUN, the government and the NTNC have agreed to revise the regulatory framework towards a 'democratic and progressive' governance of GCA (Paudel *et al.* 2012)

The other conservation area – Api Nampa - is located in Darchula district in Far Western Nepal. It covers an area of 1,903 square kilometres and consists of 21 VDCs of the district. More than 56,000 people from 8,989

---

4   It comprises a range of fragile hills adjoining to Terai, which extends from the east to west Nepal.

5   The Commission on Investigation of Abuse of Authority (CIAA), Natural Resources Committee (NRC) of the Legislative-Parliament and National Vigilance Centre (NVC) suggested that MoFSC take action to control deforestation and corruption in community forests and government managed forests.

6   FECOFUN is a federated body of community forest user groups across the country, and is recognised for its strong advocacy for community rights.

7   The NTNC is a non-governmental organisation which was established some 30 years ago by the government under the patronage of the royal family. It was initially named the 'King Mahendra Trust for Nature Conservation' (KMTNC), but after the declaration of the republic Nepal in 2008, the name is changed to NTNC. NTNC remains a controversial organisation as it is seen as representative of the former monarchy under which community rights to natural resources were curtailed, and most of the national parks were established (Bhusal 2011).

households live in the conservation area. The Department of National Parks and Wildlife Conservation (DNPWC) manages this conservation area and the implementation is going smoothly despite some resistance from FECOFUN and local communities.

The third – Banke National Park – is located in the Mid-Western Region and covers an area of 550 square kilometres mostly within the *Churia* range. The Park is surrounded by a buffer zone of 344 square kilometres in the districts of Banke, Salyan and Dang. The DNPWC has already started the management of this park amidst the fierce resistance from FECOFUN and local communities. However, given the deployment of army in protecting the park, along with support of local political leaders, the movement against it has been greatly perturbed.

The National Parks and Wildlife Conservation Act, 1973 allows the government to declare any part of the country as a PA. With that authority, the government declared the three PAs to fulfil its commitment to expand the protected area to encompass 25 percent of the country's total area. Currently the PA system in Nepal includes ten National Parks, three wildlife reserves, one hunting reserve, six conservation areas and twelve buffer zones covering a combined area of 34,185.62 square kilometres, representing 23.23 percent of the total area of the country (DNPWC 2012).

As in the forest act amendment, the process employed in declaring the PAs was initiated and driven by government officials, some environmental INGOs and a few politicians, particularly the then Minister for MoFSC, who was not an elected person. The decisions came under intense contestation and resistance.

CONTESTATION AROUND POLICY DECISIONS

Immediately after the two decisions were announced, the government received polarised responses from various actors ranging from government bureaucrats to local communities. The underlying reasons for contestation from civic groups were focussed on the undemocratic and non-consultative policy process, and on the potential negative consequences of the decisions. Here we examine the reasons for contestation and actors' engagement in the form of resistance and deliberation.

Resistance Around the Amendment Proposal

The forest act amendment proposal faced intense resistance and criticism from various actors including FECOFUN. Their concerns mainly relate to the exclusionary policy process, and the potentially negative consequences of the proposal. The government only consulted DFOs to define and contribute to formulating the policy agenda. There are several other policy actors, such as the civil society, donors, research community and so forth, but their role was grossly overlooked in this process. It shows that forestry bureaucracy tends to undermine deliberative policy making when it comes to increase their power given the opportune political context. This also suggests that participatory and deliberative policy making is not fully institutionalised in Nepal's forestry sector.

Given this, the government faced criticism from CFUGs across the country. FECOFUN took the lead to protest against the amendment proposal, demanding its withdrawal. It outright rejected the proposal as it was prepared through a non-participatory process, conceiving it as a means for the recentralisation of community forestry. FECOFUN organised a series of protests across the country including public mass rallies, road blockades, padlock of forest offices, memoranda, and media campaigns. These forms of opposition helped make the amendment proposal a public policy agenda and garner public support, giving the wider section of the public an opportunity to discuss

and debate. Similarly, the NGO Federation of Nepal and Dalit Alliance for Natural Resources (DANAR) showed solidarity with FECOFUN's protest. This heated up public debate and discussions.

MoFSC adopted diverse strategies to hastily proceed with the amendment process without being engaged in multistakeholder and deliberative policy process. One of the important strategies of the government was to deliberately highlight the news related to deforestation and corruption in CFUGs. Although the reports from Natural Resources Committee (NRC) of the Legislative Parliament and National Vigilance Centre (NVC) had revealed the cases that deforestation and financial irregularities were not only restricted to community forests but equally represented in government managed forests (NVC 2010; NRC 2010). However, the government continued to utilise mass media to tarnish the image of community forestry. There could be few cases of illegal harvesting and corruption in community forests but they were not sufficient to justify the amendment process.

Another strategy of MoFSC was strategic manipulation of the recommendations from constitutional and legislative bodies. The Commission on Investigation of Abuse of Authority (CIAA), which is a constitutional body to probe corruption in Nepal, investigated a few cases of corruption in forestry and directed the MoFSC to address it. So did the NVC. Likewise, NRC of the Legislative-Parliament also ordered MoFSC to control overexploitation and corruption in both the government managed forests and community forests after probing into overharvesting and financial irregularities in various districts. However, MoFSC strategically followed these directions and orders to refrain from public deliberation in policy process and to increase the controlling role of forestry officials. MoFSC

amendment proposal does not propose solutions to improve poor governance in its front line agencies – MoFSC, Department of Forest (DoF) and District Forest Offices (DFOs)—and fails to mention any problems of the government-managed forests.

The policy process adopted in this case represented what Colebatch (1998) called 'a vertical dimension of policy' where policy decisions are transmitted downwards (p.23) and give no room for deliberation. Rather than addressing stakeholders' position in the policy, the whole process was confined to hierarchical authority. As opposed to Mosse (2004) who advocated a 'horizontal dimension for policy processes, where government's role is to do facilitation. The government process was, however dominated by the bureaucratic control as the process was initiated as per the recommendations of District Forest Officers'. Mosse (2004) advocates for the need of good government, a vibrant civil society, and democracy (p.642) for effective policy making. But, these conditions were purposively undermined in this case.

This is not a single case of exclusionary policy process of the government. The forestry officials have monopolised the policy process for many years. The legacy of monarchy-centralisation and the culture of patronage (Malla 2001) characterise policy making in Nepal. The narrative that forests should be managed to maximise government revenues is still dominant (Peluso 1992). Similarly, there is an entrenched perception that forest policy should be primarily made by forest scientists, if not forest bureaucrats (Nightingale 2005).

Apart from the exclusionary policy process of MoFSC, another important arena for contestation and opposition was the potential consequences of the amendment proposal if enacted. MoFSC claimed that the amendment is not intended to curb the community rights; it

projected the amendment as an attempt to control rampant deforestation. However, many of the provisions of the proposed amendment are directed to constrain autonomy of CFUGs[8]. As presented in Table 1, the amendment proposal is more likely to exacerbate deforestation, illegal felling, corruption, and elite capture, which comprise the problems that the government has promised to reduce through the amendment (Sunam *et al.* 2010).

Table 1: Potential consequences of the proposal

Proposed amendment	Potential consequences
Making the government forest officials and user groups jointly responsible for forest management plan preparation, implementation, forest product harvesting and marketing	• Increased elite capture • Increased corruption • Passive CFUGs • Inadequate poverty outcomes • Increased deforestation
50% tax[9] on forest products sale	• Fake accounts and dubious financial practice • Commercialization • Low level of interest in CF-less incentive-passive forest management
Limited use zone concept[10] in *Chure*	• Increased deforestation-illegal harvesting • Increased corruption • Increased poverty
Restriction in forest products use	• Passive forest management • Increased deforestation - illegal and extra-legal felling

Source: Sunam et al. (2010)

Thus, the amendment proposal was fiercely discussed and debated in terms of its formulation process and its potential consequences. It met with resistance and opposition from civil society groups. FECOFUN organised interactions at national and subnational levels involving government officials, politicians, civil society representatives and local communities. In fact, resistance and deliberation was simultaneously going on. The intense resistance and deliberation around the proposal 'caused the government to re-consider the amendment' (IIED 2011). Finally, the government withdrew the amendment proposal and failed to table it in the parliament.

Resistance Around the Protected Area Declaration

The decision of declaring the PAs also faced resistance and opposition from FECOFUN and other civil society organisations. However, DNPWC, NTNC as well as the World Wide Fund for Nature (WWF) recognized the government's move, claiming that this would

---

[8] The Forest Act 1993 has clearly recognised the autonomy of user groups with the provision: *'The users' group shall be an autonomous and corporate body having perpetual succession* (Article 43).

[9] Although it is not explicitly defined whether this is revenue or tax or otherwise, it is understood as tax as it is expected to enter the central treasury.

[10] Limited use zone concept implies, as described in the amendment proposal, that only fallen, dead, diseased and dying forest products can be extracted from forests and no tree felling is permitted.

provide a natural corridor, protect ethnic culture, fragile ecosystems, flora and fauna and water resources including glacial lakes (NTNC 2010). Since then, the government has been trying to convince the local people, politicians and other stakeholders that the declaration of PAs was not to curb the local communities' rights but to support bio-diversity conservation and local people – their rights, culture and livelihood options – through conservation efforts.

MoFSC's unilateral decision process was at the centre of contestation. FECOFUN condemned the decision of the government for declaring PAs without free, prior and informed consent of local communities (FPIC) and indigenous people (FECOFUN 2009). FECOFUN also blamed the government for violating the provisions of Convention on Biological Diversity (CBD) and International Labour Organisation Convention 169 which require the government to consult with, and take prior approval from local communities for the declaration of the PA.

FECOFUN started to concentrate its movement on GCA though the government had declared three new protected areas in 2010. Initially it demanded to revoke the decision but now relegated their demands to recognising the existing CFUGs, providing management responsibilities to local communities, and reconstituting Gaurishankar Conservation area as Gaurishankar Community Conservation Area (FECOFUN 2011). To make their resistance stronger and get their demands fulfilled, a joint struggle committee of FECOFUN, and members of parliament from concerned districts was formed. This committee protested the declaration of the PA and launched an awareness-raising program amongst local communities about their rights.

Politicians, particularly the Constituent Assembly Members of Ramechhap, Dolakha and Sindhupalchowk also backed the communities' stance.

In this course, FECOFUN challenged the government's unilateral decision through a series of protest programs, strikes, signature campaign, and lobbying with local communities, politicians and concerned stakeholders. However, the government entrusted the management responsibility of the GCA to NTNC through Nepal Gazette notice on 19 July 2010. This attempt of the government also made FECOFUN and local communities more furious because providing management responsibility to NTNC contradicted with their demand for giving management responsibility to local communities.

The movement to make GCA community-friendly has met some success, first, as the inauguration program, slated for 8th March 2010 with the presence of the then Prime Minister, was cancelled. In addition, the struggle forced the government, NTNC and other actors to provide management responsibility to local communities while giving NTNC a facilitating role. The conservation area management regulation is in preparation phase with this spirit. However, whether the guideline will be approved by the cabinet is yet to be confirmed.

However, unlike in the case of GCA, FECOFUN has not been able to adequately resist the Banke National Park and the Api Nampa Conservation Area albeit the rights of local communities are constrained in both areas as well. The government has already started managing these PAs. Responding to a question – why FECOFUN did not strongly oppose the Banke National Park and the Api Nampa Conservation Area as they did to the GCA –

Bhola Khatiwada, the Secretary of the Joint Struggle Committee against GCA and a community activist says:

> 'Frankly speaking, the Banke National Park and the Api Nampa Conservation area are far away from Kathmandu; difficult to visit and make local communities aware of their rights. Yet, local communities in those areas are demanding their rights to their best. We are urging the government to recognise the rights of local communities in those areas. Particularly in the case of Banke National Park, the government has adopted conventional PA system of conservation by mobilising the Army. This allows little spaces for local resistance movement. As you see, the General Secretary of FECOFUN and myself are from Dolakha district (where Gaurishankar Conservation Area is located), so it is a matter of great concern for us because we have been advocating the rights of local communities for years. That's why we are resisting this conservation area to have community rights well addressed'[11].

The above response suggests a few important points. First, spatial factor – proximity to Kathmandu and accessibility – is an important element especially for a centrally led movement. Second, presence of army deters and discourages resistance movements, as it ultimately attenuates the strength of the movement. Finally, related to the first one, leaders' own constituency is an important factor for their passion and motivation to drive the struggle. Thus for struggles to take shape and momentum, it is essential to have the development of leadership across spatial scales and to ensure a proper geographical representation of leaders in any central organisation like FECOFUN.

What Explains the Level of Resistance and Deliberation Over Policy Decisions?

We found from the previous section that, of the two policy decisions covered in this study, the proposal for Forest Act amendment faced huge resistance and sparked off much deliberation. The authors were engaged with and had been observing both processes. The process followed to PA declaration was as excessively bureaucratic and undemocratic as it was in the Forest Act amendment. In terms of potential consequences, PA declaration also constrained the usufruct rights of local communities. But the Act amendment proposal was more resisted and eventually withdrawn while PA declaration was moderately opposed and is presently under implementation. This section explains the factors underpinning the level of resistance and deliberation over two policy decisions. Not a single factor suffices to understand the level of deliberation. We observe that multiple processes and actors account for these variations.

The historical context of policy making between the DoF and the DNPWC varies and is changing, with implications on policy deliberation. The DoF – in comparison with DNPWC – has been pioneer and more progressive in involving people in forest management. After the reinstatement of multiparty democratic regime in 1990, the Forest Act was formulated and endorsed by the parliament in 1993. The legislation is widely regarded as an innovative legislation in devolving rights to local people. However, the National Park and Wildlife Conservation Act 1973, promulgated by an autocratic regime, is still the key legislation in governing the PAs. The role of the then monarchy was vital in establishing and expanding the PA. The rights and concerns of indigenous and local communities were overlooked until early 1990s. A few selected I/

---

[11] Personal communication with Bhola Khatiwada on 2 May, 2012.

NGOs and government authorities were influential in designing the PA policy. The same tradition of policy making is still prevalent in DNPWC, though the involvement of local people in PA policy making has gradually increased. Thus, the institutional history, legal framework and its implementation shape deliberation or otherwise in policy process as seen in DoF and DNPWC.

Compared to policy-making tradition in DNPWC, the one in forest department is often more participatory and multistakeholder-based. This was also revealed in some other recent policy experiences, such as the preparation of REDD Readiness Proposal and Community Forestry Guidelines. This comparison strengthens the demand of local and indigenous communities and some NGOs to scrap the National Parks and Wildlife Conservation Act 1973, and to formulate a new PA legislation (Rai 2011).

We found that more the actors and NGOs engage in an agenda, the more resistance and deliberation it receives. There are numerous actors and NGOs working on community forestry and most of them support the principles underlying it. When the government made public the Act amendment proposal, many actors instantly reacted both in supporting and opposing fashions. There was huge outflow of news in the newspapers, the radio and the television around the amendment proposal. The extensive and frequent media coverage of the proposal made it a public issue. Being a public agenda it occupied a huge space in public forums, providing an ample opportunity for citizens to debate. These debates, profoundly informed by lots of existing research in community forests, contributed to enrich deliberative policy process, bringing in multiple perspectives and arguments against the authoritative voice of MoFSC.

In the case of PA declaration, comparatively fewer actors are involved. The news of the declaration enjoyed some space in the media but they were mostly to appreciate the decision with little attention to its pros and cons. FECOFUN aggressively opposed the amendment proposal but failed to sufficiently react to the PA declaration. It indicates the allegiance of FECOFUN towards community forestry and only distant concern to other form of resource governance. FECOFUN's constituents are only CFUGs, not the communities affected by PA. The resistance against the PA declaration could not become as strong as the movement against forest act amendment. It can partly be attributed to the absence of an organised local institution. This indicates that any form of a federated body, comprising buffer zone communities and others living close to PAs could effectively contest inappropriate policy process.

Undue influence of some I/NGOs in policy process has also been a great impediment in democratising policy process or increasing deliberation in PA. Notably, some I/NGOs often hijack the policy process by influencing the government, including key political leaders and senior bureaucrats. Other important policy actors, including the citizens who will be affected, can hardly get heard in this opaque policy process. The government authorities and their development partners often try to justify their approach by referring to the international commitment/target to be fulfilled. For instance, in the case of PA declaration, one of the key arguments was to fulfil international target of reaching 25% of total area as the PA. Whether the international commitment was informed by national debate is another matter. But we argue that the commitments should not act as an obstacle in engaging the public in policy process.

CHALLENGING BUREAUCRATIC HEGEMONY IN POLICY PROCESS

We argue that both the policy decisions covered in this paper did not see a democratic policy process and sufficient deliberation. They could have been more democratically defined,

negotiated and formulated through deliberative and participatory ways. But, how can we institutionalise democratic and deliberative policy process? Challenging the bureaucratic hegemony is a key to effect democratic and deliberative policy process. This is important because the threats of undemocratic policy making in the future are very likely. In this section, we explain the strategies employed to make the MoFSC rethink the amendment proposal and eventually withdraw it. The major strategies were: forming an alliance, undertaking policy research, conducting a series of interactions at multiple scales engaging wider stakeholders including forestry bureaucrats, and involving the media to disseminate the processes and outcomes of such interactions.

Alliance-led resistance of civil society and advocacy organisations pressurise the government to practise, if not institutionalise deliberative culture of policy making. The amendment proposal received vocal opposition from FECOFUN and civil society groups. Dissatisfaction over the process and content of the proposal had been raised by various other organizations including Nepal Foresters' Association (NFA), Rangers' Association of Nepal (RAN), NGO Federation of Nepal, ForestAction and Dalit Alliance for Natural Resources (DANAR) as well as many of the progressive government forest officials within the MoFSC. However, there were only sporadic voices of opposition to PA declaration but there was not a massive, organised form of resistance except for the GCA.

While this resistance could have created a crisis necessitating deliberation, it actually increased hostility between actors, and limited the space for real deliberation on the issue. The hostility between FECOFUN and ministry intensified,

although this is not a new phenomenon in Nepal's forest policy landscape. Suspicion, mistrust, animosity, resentment and the blame game often characterise the relationships between FECOFUN and the forest department. We came across blaming and allegations between FECOFUN and MoFSC in several forums and informal talks. At the extreme, FECOFUN sees MoFSC and DoF as corrupt institutions full of traditional and protectionist mindset and a highly techno-bureaucratic approach, while the DoF alleges FECOFUN as being a donor's puppet, haughty, blind supporter of community forestry, and science-ignorant. These attitudes have largely been an obstacle for genuine deliberation.

While debating the amendment proposal, the forestry officials and media challenged FECOFUN to present its evidence (data, information, analysis) with their claims. Addressing a Policy Dialogue (4th Feb 2011, in Kathmandu), former Director General of DoF said, "FECOFUN should not just put their demands without furnishing sufficient evidence. For demands to be considered, there should be strong arguments supported by evidence, science, and rigorous research". Increasingly in recent years, forest bureaucracy is staffed with a growing number of competent qualified foresters[12] who believe in the power of research. However, FECOFUN hardly could do so due to political stake and emotional attachment to the issue. In the meantime, some independent professionals examined the amendment proposal, publicised the case and communicated the case through diverse available means such as forest policy dialogue, FM radios and print media (Sunam *et al.* 2010). The focus of the study was on the process followed by the MoFSC in bringing the amendment bill, the

---

[12] The number of graduates from forestry colleges has been on a dramatic rise. There has been an increasing competition in entry exams to forest service conducted by the Public Service Commission Nepal. Some 30 years ago, there was not much competition in getting forestry jobs as the demand for forest technicians surpassed the number of forestry graduates.

rationale, and the potential results of amendment on forest governance that ultimately affects the forests conditions and local livelihoods.

The other impediment to democratizing policy making relates to how donors and I/NGOs react to new policy initiatives. In Nepal, donors and I/NGOs have played an important role in supporting community forestry and PA (Ojha *et al.* 2007; Ribot *et al.* 2006). But their role in challenging the amendment proposal was surprisingly passive and their position was neutral. Although some donor representatives attended formal interactions on the issue, their expressions were vague and ambiguous. Even long-time donors of community forestry such as UK Department for International Development (DFID) and Swiss Agency for Development and Cooperation (SDC) maintained silence over the amendment proposal. As DFID and SDC funded forestry projects were about to phase out during the time, perhaps project leaders did not want to annoy MoFSC and DoF which could risk the design and approval of the new project and, indeed, their jobs. On PA policies, I/NGOs can easily influence the ministry to make decisions as per their demands, but without due attention to the policy process. This suggests that donors and I/NGOs need to rethink such practice.

The role of political parties and their leaders in pressuring and persuading the government authorities, although hitherto under-recognised or undervalued, was found to be crucial in debilitating the proposal. Ojha *et al.* (2007) also concluded that weak links between civil society and elected political leaders in the legislature and the government was one of the reasons behind poor democratic deliberation in forest policy decisions. While contesting the proposal through policy interactions, workshops and seminars, the leaders from different political parties were invited and asked to put their views on the issue. This helped them to understand forest policy's

complexity – diverse actors, their interests and their positions. As the political leaders are the ones who ultimately assume the leadership of government institutions, their understanding and voices count and eventually shape the decisions. Yet, evidence shows that ministers largely rely on or are influenced by forest bureaucrats while making decisions.

From the above accounts, we argue that traditional approach of contesting policy –the confrontational approach – is necessary but not sufficient. It requires engagement with the government authority, media and wider public to articulate robust arguments with strong evidence in many policy forums. We find that the amalgamation of resistance and opposition geared by an alliance of multiple policy stakeholders, and policy interactions informed by research in contesting hegemonic and bureaucrat-driven policy process. Equally important was the role of media in informing the wider public and exert pressure on policy makers. Hence, we suggest that these strategies need to be adopted in different policy issues in order to challenge bureaucratic hegemony in policy process.

CONCLUSION

In this paper, we examined two particular cases of policy decisions viz. forest act amendment and declaration of three PAs in Nepal, to explain the government's policy making approach that largely debilitated deliberation and undervalued the citizen's stake in the policy process. In both cases, the policy process was characterised by bureaucratic domination and policy elite's control and largely undermined stakeholders' position in policy making. The government set the agenda unilaterally and only the policy elites, the so called 'policy experts'—including the bureaucracy, I/NGOs and political leaders— had their say in the process, leaving little or no room for public deliberation. These processes largely refrained from public engagement and

multi-stakeholder process in policy making. The intent of doing so is to reinstate the power of the government officials that has long been devolved to the local community. Such an attempt will constrain the rights of the communities and increase government control in the management of natural resources.

We found that contesting bureaucratic, donor and I/NGO hegemony is complex. Given the existing socio-political context of Nepal, it is necessary for enhancing citizen control over policy process. It requires the support of multiple actors – communities and their federations, academia, politicians, media, donors and personnel from within the bureaucracy. The conventional approach of contesting policy through confrontation can increase resentment among the policy actors. Thus we should continue to search for strategies for integrating resistance, policy research, and deliberation in order to be able to democratise policy process in forestry sector. The aim of policy contestation is not to augment resentment among the actors but to ameliorate policy environment in a way that recognises stakeholders' role while devising public policies.

REFERENCES

Apthorpe, R. and Gasper, D. 1996. *Arguing Development Policy: Frames and Discourses.* London: Frank Cass.

Blaikie, P and Springate-Baginski, O. 2007. Understanding the Policy Process. In: O. Springate-Baginski and P.M. Blaikie (Eds), *Forests, People and Power: The Political Ecology of Reform in South Asia.* London and VA: Earthscan and Sterling.

Colebatch, H.K. 1998. Policy. England: Open University Press, Berkshire.

DNPWC. 2012. Protected Areas of Nepal. Kathmandu: Department of National Parks and Wildlife Conservation.

Dryzek, J.S. 2000. *Deliberative Democracy and Beyond: Liberals, Critics and Contestations.* Oxford: Oxford University Press.

FECOFUN. 2011. An Update *on FECOFON's Movement against Gaurishankar Conservation Area Declaration.* (Accessed on 15 January 2012, http://www.fecofun.org/ projects/An%20update%20on%_20FECOFUN%20Movement%20%20against%20GCA.pdf).

FECOFUN. 2009. FECOFUN Condemns the Declaration of the GoN to Establish Banke National Park, Gaurishankar, and Api Nampa Conservation Area. Press Statement, 12 April, 2009. (Accessed on 05 January 2012, http://www.forestrynepal.org/article/195/4506).

IIED. 2011. Nepal: Space to Debate, Opportunities to Act. (Accessed on 19 Sept. 2011, http://www.iied.org/sustainable-markets/blog/nepal-space-debate-opportunities-act).

Malla, Y. B. 2001. Changing Policies and the Persistence of Patron Client Relation in Nepal. *Environmental History,* **8**(2): 287-307.

Marston, G. 2004. *Social Policy and Discourse Analysis: Policy Change in Public Housing.* England: Ashgate Publishing.

MoFSC. 2010. Approval of the Theoretical Subjects to be improved to address the Issues Seen in the Management of Community Forest. Kathmandu: Ministry of Forests and Soil Conservation, Kathmandu.

Mosse, D. 2004. Is Good Policy Unimplementable? Reflections on the Ethnography of Aid Policy and Practice. *Development and Change,* **34** (4): 639-671.

Nightingale, A. 2005. The Experts Taught us all We Know: Professionalisation and Knowledge in Nepalese Community Forestry. *Antipode,* **37**: 581-604.

NRC. 2010. A Field Report on Deforestation in Nepal. Kathmandu: Natural Resource Committee (NRC) of the Legislative Parliament.

NTNC. 2010. Gaurishankar Conservation Area Project. National Trust for Nature Conservation. (Accessed on 01 September 2012, http://www.ntnc.org.np/project/gaurishankar-conservation-area-project)

NVC. 2010. A Report on Deforestation and Corruption in Forestry Sector. Kathmandu: National Vigilance Centre (NVC), Government of Nepal.

Ojha, H., Timsina, N. and Khanal, D. 2007. How are Forest Policy Decisions Made in Nepal? *Journal of Forest and Livelihood,* **6**(1): 1-16.

Ojha, H.R., Cameron, J. and Kumar, C. 2009. Deliberation or Symbolic Violence? The Governance of Community Forestry in Nepal. *Forest Policy and Economics,* **11**: 365-374.

Paudel, N.S., Jana, S. and Khatiwada, B. 2012. Contestation and Citizen-led Negotiation around the Establishment of Protected Areas in Nepal Himalaya' (forthcoming article). *Journal of Forest and Livelihood.*

Peluso, N. L. 1992. *Rich Forests, Poor People: Resource Control and Resistance in Java.* Berkeley, Los Angelos and Oxford: University of California Press.

Rai, J.K. 2011. Restructuring Protected Areas: Exploring Democratic Governance Framework of Conservation Areas in Nepal. A Roundtable Interaction, SAP Falcha Babarmahal, ForestAction, Kathmandu. (Accessed on 10 February 2012, http://www.growingforestpartnerships.org/sites/growingforestpartnerships.org/files/Ban%20Chautari%20PA.pdf).

Ribot, J.C., Agrawal, A. and A. Larson. 2006. Recentralizing while Decentralizing: How National Governments Reappropriate Forest Resources. *World Development,* **34**(11): 1864-1886.

Scott, J.C. 1998. *Seeing like a State: How Certain Schemes to improve the Human Condition Have Failed.* New Haven: Yale University Press.

Shankland, A. 2000. Analyzing Policy for Sustainable Livelihoods. IDS Research Report 49, University of Sussex, Brighton, Institute of Development Studies.

Sunam, R.K., Banjade, M.R., Paudel, N.S. and Khatri, D.B. 2010. Can Bureaucratic Control improve Community Forestry Governance? An Analysis of Proposed Forest Act Amendment. Discussion Paper 10.2. Kathmandu: ForestAction Nepal.

●●●