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Can Authority Change through Deliberative Politics? The Four Decades of Participatory Forest Policy Reform in Nepal

Hemant R. Ojha, Mani R. Banjade, Ramesh K. Sunam, Basundhara Bhattarai, Sudeep Jana, Keshab R. Goutam and Sindhu Dhungana

Abstract

This paper investigates how forest authority is produced or reproduced in the course of forest policy change, by drawing on the past four decades of participatory forest policy reform in Nepal. We analyze various waves of deliberative politics that emerged in different contexts related to the Himalayan crisis, the flow of international aid for conservation and development projects, civil conflict and democratic transition, and most recently the policy responses to climate change. The analysis shows how such deliberative politics contributed to the change or continuity of conventional authorities around forest policy and practice. It shows that despite participatory policy reform, the conventional authority has become further re-entrenched. Based on this analysis, we argue that efforts to understand forest policy change can be more meaningful if attention is paid to whether and how deliberative politics emerge to challenge the hegemonic claims to power and knowledge about resource governance practices. Such approach to policy analysis can open new possibilities for democratic policy reform by explicating the nuances of deliberation and negotiation of policy regimes occurring at multiple scales.

Keywords: authority, deliberative politics, forest policy, Nepal, policy waves
1 Introduction

Globally, forest sector governance has been subjected to a variety of historical shifts in policy paradigms – from sustainable management in the seventies, through livelihoods forestry in the nineties, to carbon forestry in the recent years. In the developing world, and particularly in South Asia, forest policy-making has remained an important part of state making and related processes of control and exercise of power and authority (Shivaramakrishnan, 2000; Yufanyi and Krott 2011; Krott et al 2013). Shaped by international discourses, a multitude of policy narratives have surfaced in Nepal over the past five decades. These narratives, conceptualized in this paper as waves of deliberative politics, have emerged in a variety of contexts including the Himalayan crisis in the seventies, the subsequent flow of international aid for the conservation and development, civil conflict and democratic transition, and more recently climate change. These waves have led to various forms of policy change, usually with claims of having deepened the participatory governance towards addressing community livelihoods (Hobley, 1996). But they have also led to new and more subtle forms of authority claims in forest governance.

Notwithstanding many subtle forms of recentralization (Ribot et al., 2006; Ojha et al., 2009), a key policy outcome over the four decades in Nepal is that forest authority—exercised by unelected rulers and techno-bureaucratic agencies—is being increasingly shared with the local communities dependent on forest for livelihoods. Moreover, the field of policy game itself has widened, with increasing number of non-state actors getting involved in policy debates (Ojha et al., 2007; Devkota 2010). Yet, the outcomes of such progressive policy reforms have remained limited, especially in relation to livelihoods and equity (Thoms 2008). At times, such reforms have generated more heat than light, without giving rise to any legitimate policy solutions, such as in the case of large block forests in Nepal’s low lying
areas, called Tarai (Satyal Pravat and Humphreys, 2012). Within the guise of participatory reform, conventional forms of power and authority endure. What is more perplexing is that the widening participation of civil society in forest governance has also experienced democratic cul de sac, reflected in the depoliticization and the NGOisation of civil society movement (Shrestha and Adhikari, 2011). Yet there is limited attention by both research community and policy makers on whether such unfolding deliberative politics has made any significant contributions to the change of underlying forest authority in Nepal.

This paper reviews the links between deliberative politics and the formation and transformation of techno-bureaucratic authority, which underpins regimes of resource control and benefit sharing. Deliberative politics in Nepal’s forest policy development has been linked to, or shaped by techno-bureaucratic authority, which emerged in the colonial blending of forest science and bureaucracy to govern forests, and it has evolved and become stronger in and through the process of state expansion (Blaikie et al., 2001). This authority continues to lend legitimacy to centralized, technical and timber oriented forest management. Much of the deliberative politics that has unfolded in Nepal’s forest policy domain is related to this authority (Nightingale and Ojha, 2013). This paper also advances a framework of deliberative politics in understanding policy change over time and brings international discourses and local political contexts as the key drivers of policy deliberation. Through this, we aim to offer new insights into the possibility of transformative changes in policy development and practice. Such an approach can also be helpful in understanding why polices so often fail to achieve intended outcomes, and at times even produce counter-intentional results. Apart from the review of articles and policy documents, this paper draws on the experiential reflections and institutional memory of researchers cum practitioners over policy process in Nepal’s forest sector (Banjade, 2013; Sunam et al., 2013).
The next section traces the conceptual basis and the significance of historically framed approach to the analysis of deliberative politics and authority. Section Three offers a synopsis of forest policy changes in Nepal over the last four decades and how authorities were implicated through a variety of deliberative politics. In Section Four, we analyze different forest policy waves and the deliberative politics around them, and through this, we explore how various forms of forest governance authorities are contested and reproduced. Finally, we draw conclusions on whether, how and to what extent deliberative politics can change authority over forest governance.

2 Framing the analysis: deliberative politics in relation to forest authorities in Nepal

Although participatory policy reform has become almost a universal virtue of democracy, how policy process unfolds along the participatory journey is rarely explored. Understanding policy change requires paying attention to how power and authority emerge and are questioned (Arts and Tatenhove, 2004; Arts and Buizer, 2009), and how conditions of legitimacy emerge to underpin particular policy options and their enforcement (Cohen, 1997). Policy processes cannot be fully understood without looking at the temporal dynamics of deliberative politics. While descriptive approach to history can be equally ahistorical in understanding contemporary policy dynamics, a carefully crafted historical analysis can greatly enrich the explanations of policy processes (Pierson, 2005). It is in this context that we consider that the dynamic links between authority and deliberative politics can be a useful analytical lens.

Research into forest policy change in Nepal has ignored how deliberative politics unfold over time and authorize or de-authorize particular forms of power. For example, one
study explores institutional changes (Gautam et al., 2004b); another exposes the link between what political leaders and forest bureaucrats do, but without recognizing wider deliberative politics (Bhattarai et al., 2002a). Still another study looks at the influence of external drivers to policy – such as external developmental narratives such as basic needs, neoliberalism but with very limited linkages to the culturally embedded local agency (Gutman, 1991). Some have examined legislative changes such as privatization, nationalization and decentralization (Hobley, 1996), paying little attention to the ways authorities were challenged or reproduced through immanent deliberative politics. Still others have shown how particular regimes of forest governance have emerged such as community forestry (Acharya, 2002) and protected areas (Heinen and Shrestha, 2006a) as being disjointed area of policy analysis, without referring to the politics of authority surrounding these changes. Malla (2001) identifies some aspects of deliberative politics around forest policy change and continuity, but does not offer the analysis of how forest authorities face and respond to the waves of discourses and deliberative politics. Springate-Baginski and Blaikie (2007) examine the politics between local people and the state in the evolution of forest policy, and yet overlooks how the entrenched forms of power can open to deliberative politics. Blaikie and Sadeque (2000) have recognized some aspects of deliberative politics in policy change – when they frame the national environmental policies as an outcome of negotiation between international agendas promoted by a variety of players as well as the one resulting from the interplay of political and bureaucratic interests and professional styles. This study extends the work of Nightingale and Ojha (2013) who have attempted to explain forest governance through analyzing deliberative politics of authority. Here we focus on historical unfolding of deliberative politics and their effect on the forest governance authorities.

Our approach interrogates the way deliberative politics unfold over time, both within the context of preexisting regimes of authorities, and the unfolding deliberative space in the
national political field. Deliberative politics combines the ideas of contentions in the work of Tilly and Tarrow (2006) and deliberation as potential way for creating legitimate power relations in Habermasian sense (Habermas, 1996; Dryzek and Niemeyer, 2010; Fischer 2006). In this sense, deliberative politics is defined as contestations and argumentations involving rational debates as well as explicit resistance around particular forms of authorities regulating collective resources. By authority we mean power considered legitimate (Sikor and Lund, 2009), and deliberative politics can become an important way through which certain forms of power can become legitimate or illegitimate. Authority and deliberative politics are thus interlinked in any policy process, and offer a conceptual handle to navigate how certain interests; forms of power and patterns of influence are “legitimized” or contested.

A simplified view of our analytical approach is presented in Figure 1, where deliberative politics around forest authorities is seen to take place in relation to the dynamics in the global environment-development field as well as national political field. The notion of field conveys the meaning of strategic action arena where social actors contest for value, resources, power, and knowledge (Fligstein and McAdam, 2011). Here we see policy in a broader sense than the ‘tangible pieces of legislations and regulations’ (Heclo, 1972) to include both processes and outcomes.
Policy change in Nepal’s forestry is not always an outcome of internal deliberation among the forest players in the country or mere exercise of an established authority. Policies have instead resulted from a number of deliberative waves, which we define as particular threads of policy discourse, political articulations and institutional framing, and involving particular groups of actors and ignoring others, often with some concrete policy outcomes. Between 1970s and 2010, we have identified at least six different waves of deliberative policy politics. Irrespective of the origins, these waves offer interesting sites to explore the working of forest authorities and the possibility for democratic change in such authorities.

Our analysis does not trace back the origins of deliberative politics deep into the history of Nepal, but focuses on the most prominent politics that emerged in the Post-World War II development era and in the wake of Himalayan crisis. The first wave of policy...
politics, ‘afforestation wave’, from our perspective, emerged when an environmental crisis was projected in the mid-70s’ (Eckholm, 1975). This elicited conservation concerns globally, followed by an upsurge of international funding to Nepal’s forest department to create plantations, and then develop a new rule to engage local governments called Panchayat in protecting forest and afforestation. This wave resulted in the reinforcement of techno-bureaucratic authority over forests, supported by international funding and also endorsed by the prevailing Panchayat political system.

A crisis into ‘afforestation wave’ occurred when the plantation projects encountered resistance by local communities (Griffin, 1988), who were not involved in deciding such activities. This challenge opened up deliberation among forest officials, conservation projects and local communities, eventually kicking off, in the early 80s, what we conceptualize as the ‘participatory wave’. The participatory trend in policy reform soon experienced a major political upheaval in 1990, with the reinstatement of multi-party democratic politics in the country. This challenged feudalistic authority over forest governance, exercised by Panchayat politicians (in the pre-1990 political system directly ruled by the monarchy), as evident in the newly elected parliament’s decision to replace the party-less Panchayat era forest legislation with a new Forest Act 1993. This law, for the first time in Nepal’s forest policy history, empowered local communities to manage and access forest areas. However, the reform later met with resurrection of techno-bureaucratic authority (as found in the 2000 new forest policy) in the case of Nepal’s Tarai, where large blocks of high value natural forests exist. This wave also saw active civil society participation in forest governance, but later it also experienced problems of representation and accountability whilearticulating policy narratives.
Meanwhile, the country moved through a political crisis due to Maoist-led civil war, political instability, and resurrection of power by the King. After 2006, a peaceful transition has followed, with an aspiration for uprooting feudalistic authority and establishing federal democratic system. During this time (from 2006 to writing this paper 2013) of high political uncertainty, participatory policy reform experienced retrenchment of authority claims by feudalistic and techno-bureaucratic authority, while expanding deliberative politics – in the domain of civil society, political parties and the media – all exerted increasing influence on the policy decisions. The development agencies remained ambivalent and divided, sometimes supporting deliberative politics, and at other times, reinforcing the two forms of authorities, such as through supporting official policy knowledge and instruments. We call this state of democratic crisis and resurrection of centralized power as ‘political crisis wave’.

At around the same time when the Himalaya crisis was projected, a different wave of policy politics emerged in Nepal’s forest sector. Driven by the Western narratives of wilderness conservation, this led to the creation of centralized regimes of forest and wildlife conservation. In the early 70s, the idea of conservation, laden with technocratic power, was readily accepted by the King Mahendra as a legitimate rhetorical instrument to establish centralized regimes of protected areas. This spurred a ‘conservation wave’. Initially enforced through strict military deployment, the conservation wave, enacted through both techno-bureaucratic and feudalistic authority, also experienced crisis into centralized and exclusionary regime, as cases of protected areas and local people conflicts involving scores of causalities of human and wildlife surfaced. New regulations, prepared in response to this crisis, allowed people to participate in protected area management emerged since late 80s, and mainly in the mid-90s, at around same time when the Forest Act 1993 nationally and Convention on Biological Diversity (CBD), 1992, globally was enacted. In the democratic environment after 1990, the conservation policy politics was open to wider deliberative
interactions and political articulations, questioning the technocratic and feudalistic authorities that underscored centralized protected area regimes.

After 2007 Bali conference on climate change, ‘carbon forestry wave’ has emerged. Under this, forest has now been projected as carbon sinks, with a potential to earn carbon credits and revenues. It has brought questions of forest carbon monitoring, verification back to the policy politics, and at times, sidelined the livelihoods concerns of local communities. International agencies have gained new political space to influence policy politics, through funding preparatory arrangements for carbon trading and sharing international lessons. New coalitions of actors have emerged to advance the agenda of Reducing Emissions from Deforestation and Degradation (REDD+), now under serious consideration within the United Nations Framework Convention on Climate Change (UNFCCC). With support from the World Bank and other donors, Nepal has developed Readiness Preparation Proposal (RPP) for implementing REDD+ in the country, primarily driven by the bureaucratic authority, with little if any engagement of political decision makers. Local communities and indigenous peoples have also engaged actively in the debate, trying to challenge the technocratic authority, but also struggling with their own problems of representation and accountability.

In the post-1990 political environment, there has been a tremendous demand for inclusive governance in every sphere. This has forced authorities to respond to concerns for social inclusion and gender equity. Responding to this, Nepal Ministry of Forest and Soil Conservation has formulated Gender and Social Inclusion Strategy in 2007 and various existing policy instruments have been revised to ensure inclusion and equity (such as community forestry guidelines in 2008). We call this wave of deliberative politics as ‘social inclusion wave’.
Although we identified six waves as different, they intersect with each other, and at times even overlap. Moreover, a wave does not necessarily mean a linear change. These waves demonstrate how particular stream of deliberative politics emerge, challenging or legitimizing antecedent authorities in forest governance (see Table 1 for an overview). These waves thus offer dynamic threads for analyzing different forms of forest authorities and deliberative politics. In sections that follow, we elaborate individual waves demonstrating this dynamics.
Table 1. Policy wave, forestry authority and deliberative politics in Nepal 1970-2010

<table>
<thead>
<tr>
<th>Policy wave</th>
<th>Antecedent forest authorities</th>
<th>Deliberative politics</th>
<th>New forest authorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Himalayan Crisis (1970-90)</td>
<td>Techno-bureaucratic control of forest including afforestation activities</td>
<td>Dialogue between international experts and national forest officials (1970-80); resistance to plantations by local communities (80s); international dialogue among forest officials.</td>
<td>Forest officials exercise power through some forms of interactions with local community groups and political leaders.</td>
</tr>
<tr>
<td>Participatory wave (1980-present)</td>
<td>Development authority received increased space but techno-bureaucratic authority remained at the center stage</td>
<td>Expansion of deliberative space at local level; evolution of cross-scale community federations and non-state research and development agencies.</td>
<td>Forest officials and development professionals began to work more closely with local people; state officials, policy makers and donors began to exercise their respective authority over forest governance through multi-stakeholder processes.</td>
</tr>
<tr>
<td>Conservation wave (1970-present)</td>
<td>Techno-bureaucratic authority often forming a nexus with international developmental authority</td>
<td>Park-people conflicts, evolution of community networks on rights and access to protected areas. Expansion of deliberative space to non-state actors but tokenistic participation.</td>
<td>New forms of protected area regimes with shared authority between local people and state officials.</td>
</tr>
<tr>
<td>Political crisis wave (1996-2006)</td>
<td>Feudalist authority momentarily became authoritative and techno-bureaucratic authority became more central while active politics was suspended due to civil war and monarchy capture of the political power during 2005</td>
<td>Local deliberation stagnated; limited deliberation at all levels of decision-making and governance; national level civil society campaign against both civil war and royal takeover of the political system. Local communities continued to negotiate rights over forest both with Maoists locally and with the government offices.</td>
<td>Emergence of informal nexus among officials, local leaders and forest products traders to reap the benefits from forest in an informal way. Forest authority enters informal and negotiated forms.</td>
</tr>
<tr>
<td>Carbon forestry wave (2007-present)</td>
<td>Techno bureaucratic authority became more powerful with backup from developmentalist authority – which has renewed interests in forestry for carbon projects.</td>
<td>Critical civil society became complacent and participated in carbon forestry projects. Indigenous rights raised but undermined by development projects and money.</td>
<td>Resurrection of techno-bureaucratic authority over forest – and primacy of carbon agenda over local rights and livelihoods.</td>
</tr>
<tr>
<td>Inclusion wave (1990-present)</td>
<td>Techno-bureaucratic and development authority recognize inclusion in instrumental sense without offering genuine space for self-representation and voice.</td>
<td>Deliberation expanded from local to national level – networks and channels of representation of marginalized groups – women, dalits, and indigenous groups – formed and exerted strong influence on the discourses and practices of forest policy.</td>
<td>All forms of conventional forest authorities began to be more sensitive to the demands for inclusion - authority sensitive to inclusion.</td>
</tr>
</tbody>
</table>
3.1 Afforestation wave (1970-1990)

In the wake of Himalayan crisis in the 70s, massive afforestation projects were launched in the Nepal hills by the Department of Forest (DOF) with international funding. This crisis was sparked by the ‘Theory of Himalayan Degradation’ which narrated that Nepal is on the verge of semi-desertification due to deforestation, soil erosion, and slope destabilization (GON, 1974, cited in Eckholm, 1975; Eckholm, 1976). Though the theory has been criticized as being too naïve in its claims (Ives, 1987, 2004), it did reinforce the techno-bureaucratic authority to design technical solutions to the perceived environmental crisis (Gutman, 1997:56). National concerns were further reinforced by the International Conference on Mountain, held in 1974 in Munich. Threats of human existence in the mountains warned the forestry sector to make urgent response to this crisis (Hobley, 1996). All these claims and discourses together created a legitimate ground for the large-scale plantations between the 70s and early 80s (Arnold, 2001), along with necessary institutional and regulatory arrangement, all of which is interpreted as afforestation wave in this paper.

Such technical response was made possible within the two regimes of authority, which escaped deliberative politics. Firstly, it drew on the authority of scientific positivism to predict the biophysical future, without considering institutional variables. Nepal government had established the Department of Forest in 1942 to manage the forests as state property. Both the donors and the forest officials saw the large scale plantation in the mountain slopes as the solution to environmental degradation (Griffin et al., 1988). Secondly, this was legitimated within the broader regime of feudalistic authority of the then Panchayat political system, which was overseen by the monarchy. While forest officials and aid agency staff found incentives in the project based
activities (financial, career and recognition), Panchayat politicians were content with the conservation narratives and international aid, which lent credibility to their feudalistic authority.

However, this collective initiative of conventional authorities failed to recognize the views of local people and provided limited spaces for deliberation. Solution to the environmental crisis – in this case afforestation – was not informed by a deliberative process with the local communities affected by the crisis until the late 1970s. These communities also had their own indigenous/traditional system of forest governance in the Nepal hills. As the local people were allowed very little or no opportunity in defining their problems and propose solutions, many of the plantation projects became unsuccessful. The local communities, who were left out of the decision making process soon began to resist the process of government plantation by defying fences around plantations, continued grazing, and even uprooting seedlings (Griffin, 1988). They resisted not only because the process and modalities did not fit with local institutions and undermined their rights but also because they were aware that large sums of money were being wasted.

Soon it became clearer to the government foresters that the plantation projects had disappointing results in many locations. Such failures led both the technobureaucrats and developmentalists to reflect and realize the need to work with local people. This prompted donors and few innovative foresters to understand indigenous institutions and practices around forest governance (Gilmour and Fisher, 1991). Their initial pilot attempts opened up spaces for deliberation on the possibility of engaging local people in forest plantations. Later, such reflections led to the development of a
national forestry plan, which emphasized, perhaps for the first time in the forest policy history of Nepal, the role of local communities in forest management (GON, 1976).

The priority then shifted from the technical to the socio-political dimension, including issues of local rights and deliberative processes with communities. New rules were created to authorize local Panchayat units, then local government (through Panchayat forests) to take control of forest areas (GON, 1978). This feudalistic authority allowed local elites to capture control over the Panchayat forests, working closely with local bureaucrats (Malla, 2001) and acting largely on their ‘technical advice’.

This wave empowered local Panchayat units with the authority of disciplining the ordinary people in forest conservation. The senior Panchayat politicians endorsed this policy change as this would allow them additional political space in strengthening the credibility of Panchayat political system in the eyes of local communities. Yet actual plantation sites continued to be policed by ‘forest watchers’ employed by the government, with funding from bilateral donor agencies (Griffin, 1988). Panchayat politicians enjoyed the symbolic authority of forest politics that resulted from the transfer of some power from the government to local Panchayat units.

This policy wave thus demonstrates how a positivist scientific explanation of environmental crisis reinforced techno-bureaucratic authority in forest governance, leading to narrowly conceived plantation as solutions, without offering the local communities an opportunity to deliberate and exercise rights over the forest resources. It also demonstrates how the techno-bureaucratic authority enjoyed the company of international conservation agencies, and was supported by the feudalistic authority of local Panchayat regime. All this happened at a time when there was limited civic
resistance and oppositional politics in Nepal. However, by the mid-80s, civic resistance by local communities challenged the legitimacy of the technocratic authority, opening up ways for more deliberative forest governance, partly attributed to the reflective exercises among the forest officials. In the next section, we identify how the deliberative politics proceeded further.

3.2 Participatory wave (1980s-present)

The failure of technocratic solution to the Himalayan environmental crisis as discussed in the preceding wave triggered a participatory turn in forest management. The Decentralization Act of 1982 in general and the Master Plan for the Forestry Sector (MPFS 1989) in particular are the foundational legislations in participatory policy reform which were enacted in the Panchayati regime. This reform was possible as Panchayat politicians anticipated to enhance the authority of Panchayat regime through such limited political innovations at local level. The wave gained currency after the advent of multi-party democracy in 1990 which enabled the enactment of the Forest Act of 1993, considered as a landmark policy. However, the participatory wave took a different turn in 2000 with the introduction of a new policy for the management of high value block forests in the Tarai region, which is regarded as a backlash in the history of community forestry (Ojha, 2006). Three decades of this wave can be assessed in the three distinct phases namely emerging (1980s), flourishing (1990s) and crisis (2000 onwards).

In the early 1980s in the context of global decentralization movement, forest officials accepted an idea of sharing power with local people in managing denuded hills since they realized that the local people would not significantly undermine their authority. Thus, as shaped by the Decentralization Act of 1982 and the country’s sixth
five year plan (1980-85) which emphasized participatory forestry (Bhattarai et al., 2002b), the government of Nepal prepared the MPFS in 1989 with the assistance from the Government of Finland and the Asian Development Bank. Formulation of the MPFS, which placed community forestry (CF) as one of the most prioritized programs for twenty years to come, is considered as a turning point in the history of forest management (Gautam et al., 2004a; Pokharel and Ojha, 2005). This was possible because all of the dominant authorities were in a win-win situation in adopting participatory forestry at that particular point of time. However, deliberation primarily took place among experts –national and international –but not among affected people.

The decade of 1990 witnessed democratic governments, emerging civil society, and the progressive Forest Act 1993 that recognized local users as managers of the forests. The Forest Act of 1993 legitimized Community Forest User Group (CFUG) as an independent, autonomous and self-governing institution responsible to protect, manage and use a patch of national forest. Similarly, Forest Regulations and CF Operational Guidelines were prepared in 1995 to facilitate smooth implementation of the CF program. In the same year, a nationwide federated body of community forest users –FECOFUN –was founded. Soon after, it became a prominent legitimate actor in the policy processes. A number of multi- and bi-lateral agencies, civil society, and the government agencies worked together to promote community forestry in the hills. However, the late 1990s saw poor deliberation in policy politics as evident in four policy decisions made by bureaucrats in the year 1998 and 1999, such as monopoly rights on timber sales, first amendment of Forest Act of 1993, timber on reduced prices, and ban on green felling (Ojha et al., 2007).
A crisis in the participatory forest governance appeared since the formulation of the forest policy in 2000, which put forth a new forest regime for Tarai to be jointly managed by the government, local authority and the communities in the name of collaborative forest (MFSC, 2000). It was prepared through a limited deliberation among the Kathmandu based experts and elites in a workshop organized by NepalForesters’ Association (Bampton et al., 2007). The policy created deadlock in expanding community forestry and also curtailed some of the rights already exercised by existing CFUGs in the Tarai region, for example, they have to share 40 per cent of their income from timber sale to the central treasury. Moreover, it divided the users between the distant and nearby, who carried out separate demonstrations for and against it. The resistance by FECOFUN to this policy through popular protest led to the withdrawal of the collaborative forest management (CFM) in June 2006, however, it was reinstated in a week after the protest from the CFM users backed by a number of Tarai based parliamentarians. According to Bampton et al. (2007), the whole crisis lies in the poor policy deliberation rather than in the concept that sees a need of an alternative model of participatory forestry in the Tarai. Interestingly, despite strong contestation faced by this policy from various corners, techno-bureaucracy implemented CFM (Ojha et al., 2007) with the support of donors.

Thus, the convergence of interests of all of the dominant authorities –feudal, techno-bureaucratic, and developmentalist –who were rapidly losing their legitimacy due to the failure of their past attempts to address the Himalayan crisis, led to the emergence of participatory wave in the 1980s. The wave flourished during the 1990s when the emerging civil society, the government and the international agencies were cooperative to each other in fostering community forestry in the hills. However, it has
faced a crisis after 2000 when techno-bureaucracy, backed by the donors in some instances, introduced one after another policy without or with limited deliberation amidst widespread resistance from the civil society.

3.3 Conservation wave (1970-present)

Crisis of loss of mega fauna such as rhinoceros, subsequent international concerns (Gee, 1959, 1963), forest destruction in Nepalese lowland in ‘wild’ Tarai (Mishra, 1990) since 1950s, monarchy’s interests in wildlife and hunting had provided a thrust for a wave of protectionist and stringent Protected Areas (PAs) since 1970s. The National Park and Wildlife Conservation (NPWC) Act, 1973 that was centrally drafted by few officials under the monarchy’s direct influence (Upreti, Interview, 2012) legitimized techno-bureaucratic and feudalistic authority over PAs, by restricting the rights of local peoples over natural resources (Paudel et al., 2012).

While the technical and financial assistance of United Nations Development Program was instrumental in institutionalizing this wave (Heinen and Shrestha, 2006b), the Himalayan environment crisis theory (mentioned in Section 3.1) influenced mainly the highland PAs (Brower, 1991; Paudel et al., 2007). The first official PA, the Chitwan National Park, in the country was top-down, centrally backed by ‘royal order’ (Gurung, 2008; Paudel, 2005). Early PAs were influenced by North American preservation model, and were exclusionary (Keiter, 1995) and centralized (Wells and Sharma, 1998). Until the 1990s a high level exclusive ‘wildlife committee’ chaired by the royal prince used to make the important decisions on wildlife and PAs (Mishra, 2008). Imposition of PA regime, military deployment, restrictive rules and practices triggered tensions between people and PA authorities (Ghimire and Pimbert, 1997; Mishra, 1982; Sharma, 1990). This crisis, however, yielded deliberative politics and subsequent policy change.
Deliberative arrangements of PA began since 1986 with Annapurna Conservation Area Project executed by the then KMTNC – National Trust for Nature Conservation (NTNC), a national conservation NGO nurtured under royal patronage. It then had a nexus with the feudal monarchical authority that had appropriated environmental discourses (Croes, 2006). Legal provisions of Conservation Area and Buffer Zone, the two important policy outcomes of deliberative politics created deliberative spaces for local people. These progressive policies (Heinen and Shrestha, 2006a) were influenced by the philosophy of integrated conservation and development, and community based conservation (Shrestha and Alavalapati, 2006), as well as global thrust towards participatory conservation since 1980s (Campbell, 2005a; Fisher et al., 2005). These were adapted nationally aided by several national and international developmentalist authorities.

The post 1990 period is marked with changing paradigms and approaches to conservation in Nepal, from earlier centralized, fortress and strict wilderness preservation to embrace ecosystem, landscape and trans-boundary and participatory conservation (Heinen and Shrestha, 2006a; Wells and Sharma, 1998; Keiter 1995). While the developmentalist authority had positive influence in expanding deliberative spaces, techno-bureaucratic and feudalistic authorities in PAs have also been reasserting themselves. Participatory reform in PA through the provisions of buffer zones are also critiqued for being top-down and expansion of state authority (Heinen and Shrestha, 2006), granting only limited rights to local people (Paudel et al., 2012), for an elite capture (Adhikari and Lovett, 2006), entrenching social inequalities (Paudel et al., 2006) and for failing to address local peoples’ engagement with lived environment, or transform difference between conservation enforcers of conservation and rural
population (Campbell, 2005a; Campbell, 2005b). In fact, some have argued indicating gaps in the existing policies that there are no fundamental changes in the ways PAs are established and governed since 1970s (Paudel et al., 2012).

The governance field of PAs has been constituted by all the three forms of authorities, including feudal authority until recently. In the post-1990 democratic polity, critical civil society and citizens groups have increasingly contested and challenged the techno-bureaucratic and feudal authorities which have helped expand the deliberative politics in PAs (Jana, 2008; Rai, 2011) Paudel et al., 2012). However, the three forms of predominant authorities and technocratic discourses of conservation largely frame deliberative politics around PAs. Authorities and deliberative politics interact, converge, unfold in the same field and engage in the politics of policy shaped by national as well as the international forces and discourses.

3.4 Political crisis wave (1996-2006)

After the emergence of Maoist’s ‘people’s war’ in 1996, the country entered in a prolonged political transition. The whole transition was driven by the concerns for exclusionary democratic politics in the post 1990 Nepal. This wave comprises of a series of political events and forest policy decisions that have a direct bearing on forest policy politics. The political turmoil triggered by the Maoist war, the royal take over, the 2006 peoples’ uprising leading to the constituent assembly election and the demise of monarchy characterize this wave. This wave witnessed feudalism uprooted with the end of the monarchy, which was one of the major political goals of the Maoist movement (Hutt, 2004; Thapa and Sijapati, 2004). The Maoist movement weakened local feudal power and techno-bureaucratic authorities to some extent but their dominance also renewed during the transition. The direct royal rule in 2005 provided
vitality to both feudal and bureaucratic power but it was immediately shattered with people’s uprising, *Janaandolan II* which demanded more democratic and deliberative polity. Even after the *Janaandolan II* and a historic constituent assembly, the techno-bureaucratic dominance in policy process remained unwavering but it also faced intense civic resistance. This is manifest in policy politics of some key forest policy decisions: the 2000 forest policy (see Section 4.2), the proposed forest act amendment bill and the expansion of protected areas.

Feudal power further regained its vitality in the short-lived kings’ rule in 2005 and married to techno-bureaucratic power to reverse forest decentralization and growing practice of deliberation in policy making. Some key decisions were made without public engagement, for instance, the kings’ appointee – the zonal commissioners – instructed DFOs to stop timber harvesting which undermined the autonomy of local communities. The military occupied forest areas as strategic vantage points to fight Maoist rebels in several parts of the country. On top of that, the king instructed to craft an ordinance to facilitate the transfer of the management responsibility of some protected areas by an NGO nurtured under their patronage. Nevertheless, the civic resistance led by FECOFUN to the regressive acts of both Maoist and the then King provided some limited space for deliberative politics given the repressive regime at play. Similarly, international developmentalist power attempted to challenge the feudal authorities exercised by the then king through suspending aid but without much success.

The forest techno-bureaucrats and some feudal politicians continue to exercise authorities to overlook deliberation in policy politics but were immensely challenged by civil society actors. The Ministry of Forest and Soil Conservation (MFSC) proposed an amendment bill to the Forest Act 1993 referring to the anecdotal cases of illegal felling
and sporadic corruption in Tarai as symbolic instruments (Nightingale and Ojha 2013). The bill represents an outcome of the convergence of bureaucratic and feudal interests to regain their lost power through community forestry. The then forest minister and mainly senior forest officials were involved in crafting the bill whereas the role of other policy actors including FECOFUN and would-be-affected communities was overlooked. The FECOFUN forming an alliance with other civil society actors vehemently opposed the bill through protests, policy debates and media campaign. These acts of resistance forced the techno-bureaucrats to eventually reconsider the bill (Sunam and Paudel, 2012). In this way techno-bureaucratic and feudal authorities were challenged through deliberative politics. Yet, the civic opposition could not create more transformative space than just the withdrawal of the bill to feed the progressive proposals in the bill, indicating deliberative deficit in the policy politics.

In this case, the role of forestry donors was also ambiguous in relation to their commitment to participatory forestry. Even long-time donors of community forestry such as the UK Department for International Development (DFID) and the Swiss Agency for Development and Cooperation (SDC) maintained their silence over the amendment bill. As their forestry projects were about to phase out at the time, perhaps project leaders did not want to annoy MFSC and DoF which could risk the design and approval of the new projects (Sunam et al., 2013).

Similarly, another policy decision of expanding protected areas legitimized through international conservation ideologies received only some cosmetic resistance from civic actors including FECOFUN and eventually met implementation. Although FECOFUN’s legitimate constituencies are only CFUGs, it protested against the expansion of PAs but it did not make a much difference to challenge techno-
bureaucratic authority and create ample space for transformative deliberative politics. This signals the limits of civic resistance, suggesting a lack of a legitimate federated body representing local communities living in and around protected areas.

This wave has created a puzzle witnessing unprecedented setbacks in participatory forestry while enjoying expanded deliberative politics in the policy process. It demonstrates how civic opposition led to deliberative politics in the forest policy process while signaling deliberative deficits in terms of offering progressive changes in the policy. It also unravels the ambivalence of developmentalist authorities to support deliberative politics despite their rhetoric.

3.5 **Carbon forestry wave (2007-present)**

Since 2007, forests and forestry have been reconstructed as an opportunity of carbon trading with growing concern for the role of forests in sustaining ecosystems (Millennium Ecosystem Assessment, 2005) and reducing carbon dioxide emissions (Stern, 2007). It brought up the wave of carbon policy politics in Nepal through its readiness to initiate and implement Reducing Emissions from Deforestation and Degradation (REDD+) under the United Nations Framework Convention on Climate Change. This wave exhibits the emergence of REDD+ as a new form of forest politics with the direct interest of developmentalist authority in collaboration with techno-bureaucratic authority superseding the interests of forest dependent communities. The wave induced the techno-bureaucratic authority, civil societies and community networks equally in a way that REDD+ would be beneficial for all those stakeholders than the customary management of forest resources. In this connection, Ministry of Forests and Soil Conservation (MFSC) of Nepal submitted a Readiness Plan Idea Note (R-PIN) to Forest Carbon Partnership Facility of the World Bank in 2008, which was
approved with US$ 2 million in order to develop Readiness Preparation Proposal (RPP) for implementing REDD+ in the country. MFSC subsequently set up a special REDD Forestry and Climate Change Cell to speed up the RPP process, which was completed in 2010 (MFSC, 2012).

An apex body involving the representatives from different eight Ministries under the chairpersonship of the Forest Minister and a multi-stakeholder working group under the Forest Secretary have been constituted to oversee the REDD Forestry Cell and its activities. Since the approval of the RPP, Nepal entered the ‘implementation phase’, which will be completed in 2014 with the financial support of the World Bank, US, UK, Switzerland, Finland and Japan (MFSC, 2012). Although the apex body is dominated by techno-bureaucrats, the working group provides some space for other actors such as civil societies and community networks to stake their claims over the decisions related to REDD+. The various activities of REDD+ therefore seem to follow deliberative practices through the working group. However, the developmentalist authority, especially some bilateral partners and INGOs have key roles in (re)shaping the ways the REDD Working Group work.

At least three major streams of activities and processes are underway in REDD forestry in Nepal. First, the REDD Forestry and Climate Change Cell, which is composed of completely forestry officials especially from technical bureaucracy, is taking a lead role in overall REDD+ process. This cell is coordinating various studies and preparation including the studies of drivers of deforestation, social and environmental impacts of carbon trade, monitoring, reporting and verification frameworks required by the World Bank. Second, a number of donor agencies and INGOs in minimal collaboration with community networks and NGOs are undertaking
various parallel 'piloting activities' associated with REDD+. These activities are mostly catalyzed by the availability of funding but have instigated expectations on the part of local people who are directly involved in community-based forest management. Third, there are some other actors, specially the local NGOs and academic researchers strongly criticizing REDD+ from radical perspectives. The REDD+, restores techno-bureaucratic authority on the one hand, and on the other, it has created some new space for deliberative practices for potentially engaging multiple actors in the process.

3.6 Social inclusion wave (1990-present)

Despite long history of participatory policy reform, concerns for gender and social inclusion were largely neglected in the policies formulated before 1990. During the Panchayat regime, forest administration and donors often overlooked gender issue until the late 1980s. So, our analysis starts from the early 1990s from where gender inclusive participatory forest management policies were initiated, with the Master Plan for the Forest Sector (1989) being the first major policy response to the issue of social exclusion in forest governance.

The rationale behind gender consideration was to redress the then completely skewed gender imbalanced community based forestry institutions. While feudalistic authority historically promoted patriarchy in the society, an enforcement of participatory forestry policy couldn’t challenge the authority. Rather it further entrenched the exclusionary processes; women, the poor, ethnic minorities and the marginalized members could not access the deliberative space. Developmentalist authority took stock of it when growing civil society movement contested after the reinstatement of democracy in 1990. Consequently, the gender and social inclusion remains a key issue throughout the last two decades, backed by civil society groups with
support from developmentalist authority, challenging feudalistic and technobureaucratic authorities. In the deliberative politics around gender and social inclusion, three main narratives of policy change are advocated and tested: a) participatory and reservation narrative; b) women-only institutional narrative; and c) women in leadership and voice narrative.

In the participatory and reservation narrative, the first and major landmark policy for the emergence of gender inclusive policy was the Master Plan for the Forestry Sector (MFSC 1989), that recognized women’s role in participatory forest management. While the subsequent legislations such as Forest Act (1993) and Forest Regulation (1995) do not mention the word gender and women, the inclusion of two women in the executive committees of the community forestry groups was continuously practiced because of the continuous lobby from the civil society groups and supportive role of the developmentalist authority, morally bound by the universal agenda of gender inclusion. Primarily due to developmentalist authority’s assertive role combined with growing civil society movement for more inclusive policies and programs, a number of gender and social inclusion friendly policies have emerged including the 9th (1997-2002) and 10th (2002-2007) five year development plans (HMG/N, 1998, 2002).

Building on policy initiatives, the second community forestry guidelines (DOF, 2003) further consolidated it and made a compulsory provision to include 33% women in the executive committees of the CFUGs. Despite the increased trend of women’s inclusion in the executive committees of the CFUGs, women were excluded from participatory institutions and often barred from being engaged meaningfully in participatory forest management decisions (Agarwal, 2001).
Though there is no specific policy directive for setting up women-only groups, this is seen as a converging interest of developmentalist and techno-bureaucratic authorities that received a significant challenge with the failure of reservation policy. So, they promoted women-only community institutions. The positive result of this initiative is that majority of degraded patch of forest handed over to women-only groups well restored since women were entitled to manage only the degraded and small patches of forest. However, limited changes observed in gendered power dynamics while women’s marginalization continued even in women-only groups. This policy narrative too has been criticized for not being deliberative in articulating women’s voices during policy making processes. The women-only groups felt resistance from the patriarchal, feudalistic authority. Without development of adequate deliberative capacity, the women could not challenge the existing gender exclusion even though they received a leadership position. The policy instead reinforced women’s subordinate position in the household and community at large. Institutional isolation of women reinforced the idea that women are the victims of forest degradation and they should be responsible for conserving them (Bretherton, 2003). This argument pays little attention on the prevalent socio-cultural dynamics that hinder women’s voice and leadership.

Despite Maoist insurgency and persistent civil society movements for gender and social inclusion, the traditional patriarchal feudalistic and techno-bureaucratic authorities met with a severe crisis. In this relatively porous space, the Gender and Social Inclusion Strategy (MFSC 2007) and the third Community Forestry Guideline (DOF 2008) endorsed the leadership and voice narratives. This narrative advocates for crucial space for women and marginalized groups in key leadership positions, and, more so, in securing agenda of these groups to get through into decision-making processes.
Overall, the formulation of gender inclusive policies has helped reach 30% women in the decision making bodies of participatory forest management. However, so far the forest policy process has been controlled by technocratic and developmentalist authority, with limited articulation of gendered voices and concerns in the participatory forestry reform debates. Socio-cultural barriers as major cause of the perpetuation of women’s subordinate position in the society and households in relation to wider developmental context have never been the agenda for policy deliberation. The agency of women and the marginalized groups is yet to be critically aware their rights and capable of articulating their concerns in the unfolding spheres of deliberations and contentions.

4 Conclusion

This paper has analyzed how forest authorities are produced and reproduced in the course of policy change, by explicating the underlying deliberative politics that have unfolded in Nepal over the past five decades. We forged a dialogue between two key concepts – authority as legitimate relations of power, and deliberative politics involving both reasoned argument (Habermas, 1996) and political contention (Tilly and Tarrow, 2006). This approach considered how pre-existing forms of authority face challenges, in and through unfolding deliberative politics in the changing contexts, and how specific configurations of such politics reproduce, re-entrench or transform the antecedent forms of authorities in forest governance. As such, this approach complements the currently dominant way of analyzing environmental policy change – such as institutional, rational choice, and discursive analytical approaches. This study demonstrates how policy authority acquires historical, path-dependent property, with contextually grounded
forms and formulations of power, all of which can only be understood in their historical contexts, and associated deliberative politics.

Nepal experienced at least six different waves of deliberative politics since the Himalayan crisis in the early seventies, and these waves involved a variety of deliberation and contention have emerged to contest various forms of forest authorities exercised by state officials, donor agencies, and the political leaders with feudalistic behavioral legacies. This analysis shows that these forms of authority recursively play out in the unfolding deliberative politics in different policy waves, and lead to the production, reproduction and practice of forest policy. We demonstrated that specific configurations of these authorities – in relation to specific socio-environmental and temporal contexts – propel particular forest policy processes and outcomes. And in the process, there is also a pressure for change of these authorities depending on the extent and efficacy of deliberative politics. Over time, the policy field becomes more fluid and dynamic, and yet with enduring forms of authority that tends to reproduce themselves even in the face of contentious politics that unfolded in Nepal. A key conclusion is that policy outcomes can be better understood though historical understanding of such deliberative politics in relation to clearly identified forms of antecedent authorities in specific political contents.

Our approach to policy analysis resonates with some strands of critical social science that considers that both authority and deliberative politics are contingent upon existing knowledge and discourses that are historically shaped (Yufanyi and Krott, 2011; Ojha, 2013). As we have already discussed in each policy wave, an existing authority is enacted by the dominant groups, and at the same time contested by others employing a wide range of overt and covert practices. In Nepal’ cases, over the past 40
years or so, the dominant techno-bureaucratic authority has also changed through deliberative politics triggered by international discourses and internal reflections. For example, while developmentalist authority formed alliances with techno-bureaucratic authority during the afforestation wave, it played a pivotal role in expanding deliberative space for non-state actors in the policy processes during the first half of the participatory wave in the early eighties. However, the same authority remained indifferent during political crisis and the emergence of forest carbon debate more recently. This demonstrates that linear and progressive change in policy is a rare possibility, implying a need for constant attention to the cyclical waves of deliberative politics in the policy development process. Typically, Nepal case shows that policy process follows a recursive cycle of deliberative and non-deliberative dynamics.

Finally, we conclude that we need to throw a broader canvas to arrive at a reasonable understanding of the forces underlying policy dynamics. The waves of deliberative politics have diverse discursive roots, institutional locations, and actor coalitions, between global environment-development landscape and the national political field. This means that opportunities for transformative policy change could reside not always within the narrow circle of policy makers and researchers, but across the entire field of deliberative politics, as demonstrated in the article.
References


