

Conservation Policy Making in Nepal: Problematizing the Politics of Civic Resistance

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Abstract

Protected area governance has witnessed a shift from a strict-nature conservation model towards a seemingly more participatory approach in Nepal. Despite some progress, top-down and non-deliberative processes characterise policy making in protected area. However, many civil society actors have increasingly challenged the government to provide space for local people in decision making so that their rights to natural resources are considered. This article examines two key aspects of the politics of policy process: why conservation policy making is often less deliberative than it could be and why civil actors pick up some policy decisions (not others) for contestation. In doing so, we analyse a recent policy decision of the Nepal government on the protected area which encountered civic contestation. Drawing on the review of policy decisions and interviews with government authorities, civic leaders and protected area experts, this paper shows that the government and large conservation organisations continue to shape the policy process while undermining the legitimate voices of local and non-state actors in the conservation policy landscape. Civic resistance as a means of democratising policy processes looks promising, challenging unquestioned authorities of the government and conservation organisations. Nevertheless, the politics of resistance has enjoyed limited success due to the political interests of civic institutions and their leaders, at times overshadowing critical policy agenda such as the severity of rights constrained and issues of poverty and marginalisation. This article suggests that civic actors need to rethink over their politics of resistance in terms of pursuing agenda and strategies to ramp up policy deliberation.

Keywords: civic actor, conservation, institutions, policy decisions, policy process, protected area, resistance, Nepal

INTRODUCTION

Protected area governance has witnessed a shift from strict nature conservation without human interference towards a seemingly more participatory approach in Nepal. Despite

several efforts to nurture people's participation, top-down and non-deliberative processes characterise the policy process in protected areas (PA). However, in recent years the idea that policy experts, mainly government officials and technicians, should be the main policy actors and that the people are the passive recipients of policy has been challenged (Adams and Hutton 2007; Blaikie and Springate-Baginski 2007; Ojha et al. 2009). Instead, democratic, participatory and deliberative approaches to policy making have received growing attention in protected area governance (Dudely 2008). In this light, non-state policy actors and scholars have begun to contest the linear, rational tradition of policy making¹ and excessive bureaucratisation² in policy formulation. A part of the reason is that rational policy making assumes that the policy experts,

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principally the bureaucrats, can understand the problems and devise best policies, undermining the political-economic context and stakeholders' voice, and denying the constitutive role of discourse (Marston 2004). Keeping this flawed assumption in consideration, a new approach needs to explore strategies to promote democratisation and a deliberative culture of policy making.

As the history of PAs in Nepal suggests, top-ranked bureaucrats and conservation-oriented international and national non-governmental organisations (I/NGOs) have largely downplayed the importance of local and other non-governmental actors in the policy process (Agrawal and Ostrom 2001; Paudel et al. 2010; Paudel et al. 2012). Nepal began establishing protected areas formally in the early 1970s with the promulgation of the National Parks and Wildlife Conservation (NPWC) Act 1973. In many ways, the then kings played a key role in institutionalising and expanding protected areas. Until the end of monarchy in 2008, kings and their allies continued to patronise and assert direct control over protected areas (Bhatt 2003; Heinen and Shrestha 2006). In the early days of conservation, even usufruct rights of local and indigenous people were curtailed. With growing local resistance and a shift in conservation paradigms at an international level, limited use rights of local people have been recognised in the national parks. Despite having over nearly half century of the history of conservation in Nepal, the country has seen only a few progressive PA amendments. Based on those amendments, participatory conservation approaches have been piloted and institutionalised to address the livelihoods concerns of local people (Budhathoki 2004; Heinen and Mehta 2000; Paudel et al. 2007). However, there has been little progress in recognising voices of local and other non-state actors in the process of making and remaking government policies, legislations and plans despite the fact that the country has seen a significant political change from once being an active monarchy to a democratic republic now.

Policy landscape, however, has changed in recent years to some extent as civil society actors have started challenging the government and international agencies, demanding wider public engagement in the policy process. Contesting policy-making process in relation to protected areas is a new phenomenon in Nepal despite the fact that there have been constant grass-roots and national-level rights movements to protect the rights of local and indigenous peoples (Paudel et al. 2010). In this changing context, this paper offers an analysis of a recent critical policy decision of the Government of Nepal (GoN) on PAs to understand the current policy process and to examine the associated civic action. The policy decision considered here relates to the declaration of three new protected areas: two conservation areas namely Gaurishankar Conservation Area (GCA) and Api Nampa Conservation Area (ANCA), and one national park, called Banke National Park (BNP). This decision faced civic resistance, which was the first of its kind enacted over a policy process in protected areas in Nepal. Nevertheless, civic resistance over the decision was selective in its performance as the declaration

of GCA received severe resistance, leading to the process of reformulation of implementation strategies; whereas ANCA and BNP saw relatively smooth implementation. As the declaration of all three PAs was part of the same decision, it is important to examine why civic actors opposed the former while overlooking the latter. This article attempts to address this puzzle as there has been limited scholarly attempt in this regard.

This article, in a nutshell, enriches and expands our understanding of the policy process in the protected area in two ways. First, while a few studies have examined the policy process in protected areas of Nepal (Heinen and Shrestha 2006; Paudel et al. 2012), this article enhances our knowledge on policy process in PAs from the perspectives of deliberative governance with fresh insights drawn from the analysis of recent policy decision. Analysing policy process in PAs with close attention to the question of how citizens can feel that they are included into the governance process is crucial in the Nepali context as elsewhere. A key reason is that the government often considers participation and deliberation are to be practised at the level of implementation only, not in the realm of policy making (Paudel et al. 2010). However, participation of local and indigenous peoples and non-state actors in the processes of policy making, not merely in the domain of policy implementation, is critical. This is more so in Nepal where PAs account for about a quarter of the country's land characterised by rich biodiversity including wildlife and vast wetlands, having potentially huge implications on the livelihoods and recognition of local and indigenous peoples. Second, this article expands our knowledge about the politics of resistance by illustrating why civic actors oppose some decisions, not others. This understanding contributes to enriching debates about the role and limits of civic actors given the fact that they have increasingly demanded for their space in the PA policy process. In this backdrop, this article informs the ongoing debate in PA governance shifting from expert-driven, top-down approach towards participatory and shared learning and towards deliberative democracy (Adams and Hutton 2007; O'Riordan and Stoll-Kleemann 2002; Pretty and Smith 2004).

This article is divided into five sections. Section two presents an analytical framework and research methods. The section provides the logical and empirical basis for analysing government policy decisions in Section three. Section four unfolds civic resistance around the policy decision. Section five explains the factors behind unequal resistance and is followed by a conclusion.

METHODOLOGICAL APPROACH

Analysing policy process and the politics of resistance

We understand a policy process as the means by which a policy is conceived, negotiated, expressed; and perhaps, brought into laws. It includes the procedures of implementation. Policy reform does not emerge as a linear response to "truth talking

to power”, as a result of facts from scientific research that reveal new truth and support alternative rational arguments for a policy change (Blaikie and Springate-Baginski 2007: 61). Policy reforms are much more complex than the simplistic rationalist model. Why are some of the ideas and knowledge that spin in the policy and research networks picked up and acted on, while others are left unrecognised? This is perhaps the vital question to ask in relation to policy processes. It is, therefore, important to explain the policy process itself – the evasions, good faith, ambiguities, and strategies of the 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 crafted only by political leaders in consultation with the senior bureaucrats of the ministries and departments, but it is profoundly affected at all stages by many other actors, including other ministries, international funding institutions, field staff, the judiciary, civil society/social movements, NGOs, renowned scientists and intellectuals, local politicians, and business communities. Therefore, an enquiry into policy process in the protected areas should not confine itself to the ministry and the departments in the country’s capital. The politics of knowledge production is an important element at all stages of the policy process. As this politics concerns the production of ‘authoritative knowledge’ about protected areas, the question is how protected area knowledge is produced and communicated to others. The answer to this question largely shapes policy outcomes.

Drawing on the deliberative governance framework, this article examines the policy process in PAs in Nepal. This framework suggests 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 policies and 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 the policy process. The first question is: who define(s) the policy agenda? This question does not confine itself to identifying the actors, but also includes their interests, strategies, and reasons behind the advocacy or resistance. The pressing issue here is to understand; to what extent 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 – the 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 a decision when there is no clear public opinion formed due to weak deliberation amongst elected politicians or administrative bodies. Finally, once the policy decision is made, who influences its practice,

and how and to what extent concerned groups of citizens, technical officials, and politicians are prepared to engage in learning from implementation or practice – compliance, resistance, disobedience and so forth.

As this paper will show, the Nepal government made a policy decision declaring three PAs with little deliberation. Consequently, civic actors opposed such non-consultative policy process of the government. It is crucial to note here that civic opposition focuses on one PA, not on all three PAs. To understand this politics of resistance, we consider five key factors, suggested by Carpenter (2007: 116), that NGOs consider picking up issues for advocacy: media attention, donor resources, political opportunity, issue attributes, and frame availability. In this regard, Tarrow’s idea of political opportunity structure is also useful. It refers to “the consistent signals to social or political actors which either encourage or discourage them to use their internal resources to form a social movement” (Tarrow 1994: 54). Tarrow identifies four important political opportunities: access to power, shifting alignments, availability of influential elites, and cleavages within and among elites.

Collecting data

We collected empirical data for understanding the policy process and the politics of resistance through the review of government decisions and legal documents along with reports published by the Federation of Community Forest Users Nepal (FECOFUN)³ and National Trust for Nature Conservation (NTNC) regarding the PA declaration. In addition, we carried out 16 interviews⁴ with FECOFUN and community leaders, government officials, and conservation policy experts to collect information about who participated in the PA declaration, how the decision was made, why the decision was protested and other critical questions concerning the policy process and civic resistance. The second author observed protests organised by FECOFUN and other actors against the government declaration at different times. The author also participated in the national-level interaction organised by FECOFUN on February 5, 2010, and in the roundtable interaction jointly organised by the ForestAction Nepal and the FECOFUN on July 3, 2011. Representatives from the Ministry of Forest and Soil Conservation (MoFSC) and other government departments, civil society organisations, and local community members participated in these forums. These forums provided the opportunity for understanding the different viewpoints of policy actors on the PA declaration.

POLICY MAKING IN PROTECTED AREA

Protected area declaration

This section provides a brief description of a recent policy decision of the government of Nepal relating to protected areas. We present here the rationale put forward by the government for declaring the protected areas and the policy processes adopted.

On December 4, 2009, just a week before the 2009 United Nations Climate Change Conference (UNFCCC) in Copenhagen, the Government of Nepal announced the establishment of three new PAs (Figure 1). The Gaurishankar Conservation Area covers an area of 2,179 sq. km with 22 Village Development Committees (VDCs)⁵ of three districts, namely Dolakha, Ramechhap, and Sindhupalchok. About 12,000 households live inside the conservation area territory (DNPWC 2012). This conservation area represents mid- and high-hill ecosystems, providing wildlife corridors between existing mountain PAs.

The Api Nampa Conservation Area declared along with GCA is located in Darchula district in Far Western Nepal. It covers an area of around 1,903 sq. km and consists of 21 VDCs of the district. More than 56,000 people living in 8,989 households reside in this conservation area. The third—Banke National Park—is located in the Mid-Western Region, covering an area of 550 sq. km within mostly the *Churia*⁶ range. The Park is surrounded by a buffer zone of 344 sq. km spread in three districts namely Banke, Salyan, and Dang. This national park provides rich habitat for the Royal Bengal Tiger, an endangered species, and provides an extension to Bardiya National Park (DNPWC 2012).

Analysing decision through deliberative governance lens

Adhering to the National Parks and Wildlife Conservation (NPWC) Act 1973, the government declared three protected

areas. Article 3.1 of this Act reads: “the government of Nepal may, if it deems necessary, declare an area as a National Park or reserve or conservation area by notification in the Nepal Gazette and indicating the boundaries thereof” (NPWC Act 1973). According to this Act, the government can exercise this legal right for declaring a new PA or for expanding existing protected areas. In the legal terms, the declaration of three new PAs looks lawful and straightforward since the NPWC Act 1973 does not lay out any procedures to be followed while making a policy decision for establishing PAs. However, it is quite relevant to view this Act in the context of international commitments of the Nepal government such as International Labour Organization (ILO) 169, United Nations Declaration on the Rights of Indigenous Peoples, and Convention on Biological Diversity; which require the government to ensure free, prior, and informed consent (FPIC) of local and indigenous communities before establishing PAs. However, the Nepal government largely ignored FPIC in declaring the three new PAs. In the process, the government ignored consultation with important stakeholders and right holders including FECOFUN, Protected Areas People’s Rights Federation (PARF),⁷ and would-be-affected people in and around the new protected areas. Table 1 shows the practices of the policy processes in the case of PAs declaration through the lens of deliberative governance.

As indicated earlier, wider public engagement in the policy process is of huge significance in the Nepali context where the PA network covers productive land, wetlands, and valuable

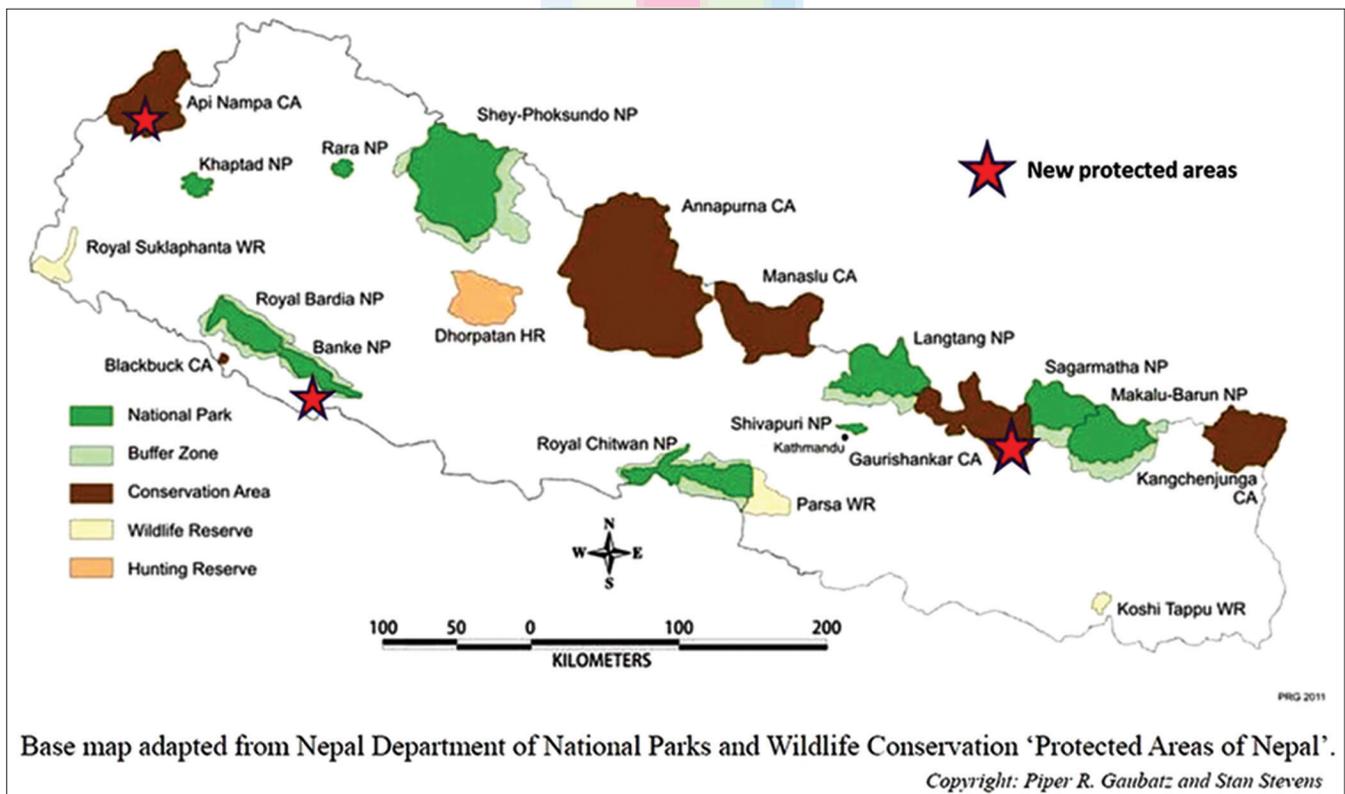


Figure 1
The new protected areas established in 2009 in Nepal

Table 1
*Evaluation of policy decisions
through the lens of deliberative governance*

Stages in policy development	Practice in the case of PA declaration
Defining the policy agenda (i.e., declaration of new PAs)	Primarily PA bureaucrats and international conservation agencies and NTNC; NGOs in a relatively marginal position.
Extent of public deliberation	Government decided without opening the issue for public debate; no civil society actors consulted; FECOFUN and users heavily protested the move as some of the rights of users were expected to be further curtailed.
Formalising the proposed decision	The cabinet with support from PA bureaucrats, not by people's representatives through the parliament.
Citizen responses and implementation status	Constant resistance by civic groups leading to the process of reformulating CA guidelines in the case of GCA; no active resistance in the case of two PAs.

Note: Adapted from Ojha (2007: 3)

forests—a critical means of livelihood for millions of rural poor and indigenous peoples. Currently the PA system in Nepal includes ten national parks, three wildlife reserves, one hunting reserve, six conservation areas, and twelve buffer zones covering an area of 34,185.62 sq. km, which represents 23.23% of the total area of the country (DNPWC 2012). Given this large PA coverage, a question arises as to whether Nepal can afford to maintain such a huge landmass for fortress conservation (Paudel et al. 2012). In addition, the current PA coverage is poor in terms of representing important biological and geophysical features (Shrestha et al. 2010).

Why policy deliberation in PAs remained poor? We highlight two key reasons here. First, the institutional history of PAs and associated legal frameworks shaped the policy process in PAs. After the reinstatement of a multiparty democratic regime in 1990, the parliament formulated the Forest Act in 1993, which has been widely regarded as an innovative legislation in devolving rights to local communities (Ojha et al. 2007). However, the NPWC Act 1973, promulgated by the then autocratic *Panchayat* regime, is still the key legislation governing the PAs although there are some sporadic voices to revamp it (Rai 2011).

Until recently, five amendments have been made to the NPWC Act 1973. Although these amendments include some flexible provisions to allow local communities' access to forest resources for their livelihoods (Heinen and Shrestha 2006), local people's participation in PA policy formulation has not been adequately acknowledged. In fact, these amendments address only the use rights of local people in national parks where the government authorities have strong control over compared to the case of conservation areas. The main spirit of these amendments was to manage growing conflict between

the national park management authority and the local people, rather than to acknowledge their rights in the PA policy process (Heinen and Mehta 2000). Although the involvement of local people and non-state actors in PA policy making has subtly increased (Budhathoki 2004), it has remained weak. The existing 'age-old' legal framework drove the policy process in the case of the government's declaration of new PAs.

Second, as interviews with both government bureaucrats and civic actors highlighted, the power of some conservation organisations namely World Wide Fund for Nature (WWF), International Union for Conservation of Nature (IUCN), and NTNC is significant in promoting strong conservation interests by influencing government decisions. Such influence often acts as an impediment in democratising policy process in relation to PAs. A FECOFUN leader explained this: "Some organisations make the most out of the policy process to meet their vested interests by influencing the government, including key political leaders and senior bureaucrats, by arranging international tours". In the course of interviews, government bureaucrats admitted this tendency of organisations. Yet, Nepal is no exception to this tendency; rather many developing countries share a similar experience. In their review article, Adams and Hutton (2007: 168) put: "...organisations [conservation organisations] have remarkable power to define and delineate nature, to determine who can engage with it and under what rules, and to divide landscapes into zones that structure rights and access." However, other important policy actors, including the citizens who will be affected, have struggled hard to be heard in such an opaque and pre-mediated policy process. The government authorities often try to justify their process and decision referring to the need to meet international commitments and targets. For instance, in the case of a PA declaration, one of the key arguments used by the government was that the area set aside for PAs needs to reach 25% of the Nepal's total area to fulfill an international commitment. We argue that such commitments should not act as an obstacle in engaging local and indigenous peoples and non-state actors in the policy process.

However, despite the critical concerns, we suggest that the role of civic actors has been far from being down to earth as only the decision of establishing GCA faced stronger resistance from FECOFUN, local communities, and other civic actors. But the other two new PAs were, by and large, overlooked. In the following section, we analyse why and how the FECOFUN and other stakeholders contested GCA, but not the other two PAs. We also examine the reasons for contestation and actors' engagement in terms of resistance.

CIVIC RESISTANCE AROUND POLICY DECISIONS

The decision of the government in establishing new PAs sparked off debates over protected area governance. Soon after the PA declaration, it received polarised responses from various actors ranging from the state bureaucrats to local communities. The Department of National Parks and Wildlife

Conservation (DNPWC), NTNC, and the WWF supported the government's decision, claiming that new PAs would provide a natural corridor, and protect fragile ecosystems, and water resources (NTNC 2010). The government tried to convince the local people, politicians, and other stakeholders arguing that the declaration of PAs was not to curb the rights of local communities but to support bio-diversity conservation, the livelihoods of local people and their culture through conservation efforts. On the other hand, FECOFUN, local communities and civic actors namely Nepal Federation of Indigenous Nationalities (NEFIN), Community-based Forestry Supporter's Network, Nepal (COFSUN) and the Himalayan Grassroots Women's Natural Resource Management Association (HIMAWANTI) opposed the decision of declaring new PAs. After a careful analysis of the press release of FECOFUN and interviews with local community leaders, we have identified three key reasons for their opposition.

First, civic actors considered the processes followed for declaring new PAs undemocratic and non-deliberative. Interviews revealed that the then Forest Minister and senior bureaucrats consulted only key staff from the Department of National Parks and Wildlife Conservation to define and formulate policy agenda for PAs. Criticising this, the FECOFUN released a press statement. The press release reads: "It [the declaration of new PAs] is the black day in the history and reminds the *Panchayat* regime.⁸ This decision is completely against local community rights and ignores all well accepted democratic norms and values" (FECOFUN 2009). The press release suggests that FECOFUN's main concern relates to the exclusionary policy process of the government.

Second, interviews found that the government did not opt for free, prior, and informed consent (FPIC) of local communities and indigenous peoples before declaring the PAs. Moreover, FECOFUN along with other civic actors representing indigenous communities criticised the government for violating the provisions of the Convention on Biological Diversity and ILO 169 which require the government to consult with local communities for establishing new PAs. The claim of FECOFUN seems plausible since ILO 169 on its article 6, 1(a) reads: "In applying the provisions of this Convention, governments shall consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly" (ILO 1989). As the Nepal government has ratified the ILO 169, it has become binding for the government to comply with it.

Finally, civic actors in the interviews noted that the declaration of new PAs circumvented community forestry, a prevailing forest management regime. FECOFUN and local community leaders, during an interaction program on February 5, 2010 in Kathmandu, put strongly that the community forest user groups at local level have been conserving forests and biodiversity while meeting their needs for forest products. According to them, through strong restrictive regulations PAs would undermine the rights of local communities to access and maintain control over natural resources.

Being a key player, FECOFUN contested government's decision through a series of protest programs, strikes, signature campaigns; and lobbying with local communities, politicians, and concerned stakeholders. Nevertheless, despite the protest, the government was determined to implementing the decision. As part of the implementation, the government entrusted the management responsibility of the GCA to NTNC⁹ through the Nepal Gazette notice on July 19, 2010. This attempt of the government made FECOFUN and local communities even more furious as they viewed assigning management responsibilities to NTNC as an attempt to completely ignore their demand for a community-led management model of GCA.

In response to the government's commitment to proceed with its decision, FECOFUN led a local resistance movement. In the GCA region, a local struggle committee was formed with active leadership of FECOFUN to make the resistance stronger and get the demands fulfilled. Initially, the local struggle committee demanded that the government's decision be revoked. Later the committee asked the government to recognise the existing community forest user groups and provide management responsibilities to local communities, reconstituting the GCA as the Gaurishankar Community Conservation Area (FECOFUN 2011).

Similar to what FECOFUN did at the national level, the local struggle committee organised a series of protests at the district level, including public mass rallies, memoranda, and media campaigns. The committee also launched awareness-raising programmes among local communities regarding citizen's rights. These forms of opposition helped make the PA declaration a public policy agenda and garner public support, giving the wider section of the public the opportunity to discuss and debate the government decision. Many district-based civil society groups that represent local and indigenous communities as well as political parties and then members of the parliament showed solidarity to the resistance movement. This resistance movement heated up public debate and discussions, creating intense pressure on the government.

In the terms of civic actors, the movement to make the Gaurishankar Conservation Area community-friendly met with some success. The launch of the GCA to be formally inaugurated by then Prime Minister, slated for March 8, 2010, was cancelled. In addition, the struggle committee exerted strong pressure on the government, NTNC and other actors to hand over management responsibility to local communities while providing the NTNC with a facilitating role only. The government and the NTNC agreed to revise the regulatory framework towards "a more democratic and progressive" governance of the GCA (Paudel et al. 2012: 45). However, a grass-roots activist from the GCA region confirmed that 'the guideline is yet to get the final shape'.

Unlike the case of the Gaurishankar Conservation Area, FECOFUN failed to adequately resist the declaration of other PAs—BNP and ANCA—even though these PAs potentially constrain the rights of local communities to a greater extent. Local communities in the leadership of FECOFUN protested against BNP and ANCA. However, the FECOFUN poorly

backed the local campaigns compared to the case in the GCA declaration. The Department of National Parks and Wildlife Conservation (DNPWC) has been taking control of these two PAs and the implementation was going smoothly, despite some modest resistance from FECOFUN and local communities.

As such, the decision making process was less consultative and participatory than it could be, and GCA was more resisted while ANCA and BNP received modest resistance. In the next section, we discuss the limits of civic resistance by discussing why the GCA declaration was opposed while other two declarations for PAs met relatively smoother implementation even though all three PAs were part of the same decision.

SAME DECISION, UNEQUAL RESISTANCE

The previous section showed that FECOFUN opposed the GCA declaration but failed to sufficiently attend to the other two declarations. As no similar attempt was made in the past to contest the declaration of PAs in Nepal, the movement around the GCA was historic. Nevertheless, the resistance movement could also have been enacted to advocate for the rights of local communities in BNP and ANCA with equal or greater emphasis. We argue here that civic action had to target more BNP and ANCA than GCA for two important reasons.

First, national parks legislation allows the government authorities to exercise greater power over local people's rights than it is the case for conservation areas (Table 2). According to the NPWC Act 1973, "No person can carry out hunting, grazing, and occupy inside the national park" (p. 4). Armed forces guard national parks with frequent patrolling. These strict legal and armed security provisions can potentially constrain local people's access to resources in the BNP.

The other important reason is that people living in and around BNP and ANCA have been experiencing chronic impoverishment as many studies have revealed. For instance, a large number of the landless, particularly previously bonded agricultural labourers, called Kamaiya (Fujikura 2001; Giri 2009) and poor indigenous Tharu people (Conway et al. 2000; Lam and Paul 2014) reside in Western Nepal where BNP is located. Their livelihoods would potentially be further threatened under the National Park regulations. This reflects the limits of civic resistance. This section, therefore, explains unequal responses of the FECOFUN and other civic actors.

We found that the more the actors and NGOs engaged in an agenda, the more resistance it received. There were numerous actors and NGOs such as FECOFUN, COFSUN, NEFIN, NRM Confederation, and ex-members of Parliament who

played active roles in the case of GCA. They participated in different forms of protests described earlier. In addition, these non-state actors attended interactions organised by FECOFUN to put their views on the PA declaration. For instance, a NEFIN representative at a roundtable interaction on July 3, 2011 stated, "The government declaration has ignored the rights of indigenous peoples and also undermined FPIC which are clearly provisioned under national and international legal instruments."

Media support is crucial for bringing an issue to public attention. The nexus between the media and the community is important if the issue is to receive media coverage. In response to the PAs declaration, the print and electronic media produced news about protests launched by civic actors. Local radio stations namely Kalinchowk FM, Radio Shailung, and Hamro Radio broadcasted news and events about resistance campaigns. *Aankhijhyal* (a popular TV magazine program) also televised the issues of GCA on the Nepal TV. A leader from the GCA claimed that the use of social media such as 'Facebook' also made the protests against the GCA strong enough to gain wider public solidarity. As such, the extensive and frequent media coverage of GCA appeared to make the resistance movement a public issue. This example lends support to the Carpenter's (2007) claim that media attention is a key factor for NGOs to frame an issue for policy advocacy. However, the media gave less coverage of ANCA and BNP.

Similarly, FECOFUN and local leaders reported many reasons for unequal resistance in the course of interviews. In response to a question – why FECOFUN did not show a strong opposition to the BNP and the ANCA as they did it for GCA, the Secretary of the Joint Struggle Committee from the GCA region and a community activist stated:

Frankly speaking, the Banke National Park and the Api Nampa Conservation area are far away from Kathmandu; difficult to visit and sensitise local communities of their rights. 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. As you see, the General Secretary of FECOFUN and myself are from Dolakha district [where GCA is located], so it is a matter of our prestige because we have been advocating for the rights of local communities for years. That is why we are resisting this conservation area and advocating for community rights to be well addressed (Secretary of the Struggle Committee pers. comm. 2012).

This response highlights a few important points. First, the spatial factor, proximity to Kathmandu and accessibility, was an important element especially for a centrally-led movement. Second, the leader's own constituency is another important factor to drive the struggle which results in producing broader 'political opportunity structure' for political entrepreneurs (Tarrow 1994). FECOFUN's constituents are only community forest user groups, which do not necessarily represent

Table 2
Rights of local people in national parks and conservation areas

Rights	National Park (BNP in this case)	Conservation Area (GCA and ANCA)
Use rights	Limited	Regulated
Management rights	No	Limited
Exclusion rights	No	Limited
Alienation rights	No	No

communities affected by PAs. But in the case of the GCA, the interests of local leaders who were influential in FECOFUN shaped the resistance movement. Moreover, the resistance against the protected area declaration could not become as strong as the movement FECOFUN waged against forest act amendment (Nightingale and Ojha 2013; Sunam et al. 2013). This understanding indicates that any form of a federated body, comprising buffer zone communities and others living close to protected areas, could effectively contest inappropriate policy process in the protected areas. Thus, one would support the argument of strengthening Protected Areas People's Rights Federation (PARF), which is not so vibrant and resourceful now. In order to have any effective advocacy, clear agenda framing, leadership, institutional base, media support and funding are important factors (Carpenter 2007). But, as a protected area expert commented: "PARF lacks many of these capacities and resources."

Further, civic actors, including FECOFUN leaders, claimed that they failed to resist the BNP and ANCA declarations because local leaders did not support their cause. It was so because the BNP was guarded by the Nepal Army. The presence of armed guards created intense fear among local people who could otherwise protest against the government decision, as evident in the statement of a local leader actively involved in community forestry from the BNP area: "Armed guards are posted everywhere. We could not ask local people to get organised for protests because we knew there were cases that the army had shot local people when they entered the national parks to collect forest products." While there are seemingly many reasons, we argue that FECOFUN leaders mobilised comparatively greater resistance against the GCA given the political interests of leaders in their own constituency, to garner potential political opportunities.

CONCLUSION

We examined a recent key policy decision of the Government of Nepal, the declaration of three new protected areas, to shed light on the policy making approach in PAs. It has also addressed, at least modestly, a critical question of the politics of policy process: why civic actors contest some government decisions, while other decisions that can have potentially pernicious impacts on local and indigenous communities go unnoticed.

While making the policy decision considered here, the then Minister, senior bureaucrats, and conservation organisations played a key role. We demonstrated that these three actors not only overlooked 'free, prior, and informed consent' (FPIC) of local communities but also failed to engage other key national and sub-national policy actors. The then Minister along with senior government officers and a few organisations set the policy agenda and finalised the decision prior to endorsement through the cabinet, leaving little room for wider public deliberation. This lends support to the argument that despite a wave of the people's movement in 2006-07 and a decade long Maoist 'people's war', protected area governance has remained

largely non-deliberative. This paper also supports the view that "There are no fundamental changes in the way PAs are established whether it was in the 1970s or in 2010" (Paudel et al. 2012: 93). In Nepal's forest governance, unlike PAs, forest policies have witnessed profound changes in their substance and policy process in the last two decades. However, a key legislation for PAs, NPWC Act 1973, remains largely intact with only a few amendments. This has been the case despite there being amplified voices calling for the reformulation of a new Act for PAs (Rai 2011).

As we illustrated in this paper, civic actors, prominently FECOFUN, protested against the government decision on PAs. Civic resistance over this decision was historic as civic actors challenged the government authority on the issue of how policy should be made for the first time in relation to PAs. However, their resistance was centred on one case, the GCA, and was thus a selective, cherry-picked case. The analysis revealed that the political choice of key FECOFUN leaders and geographical comfort shaped their focus on the GCA as it was their own constituency, potentially offering them more political opportunities (Tarrow 1994). We found no plausible reasons for overlooking the other two PAs for contestation. Instead, the overlooked PAs warrant even greater civic action or resistance when one takes into account the level of restrictions on the rights of local people and the miserable poverty in western Nepal where these PAs are located. The selective civic resistance was not based on shared justifications; rather it sustains the argument that civic actors often pick 'low-hanging fruits' as per their political benefits and comfort.

Although this paper suggests that civic action is not always equally played out, we continue to see potential for civic action in bringing about changes in the policy process. The question remains as to how we can institutionalise democratic and deliberative policy process through civic engagement in PAs. This question is important because the threat of non-deliberative and unilateral policy making in the future is more likely, and again civic action can be selective and weak. There have been a number of innovations and policy experiments around resource governance. In Nepal, Ojha et al. (2007) observe strong links between civil society, elected political leaders in the parliament, and the government bureaucrats leading to rich democratic deliberation in forest policy decisions. Thus, major strategies for promoting deliberative policy process can be: forming an alliance, undertaking policy research, conducting a series of interactions at multiple scales engaging wider stakeholders including bureaucrats, and involving the media to disseminate the processes and outcomes of such interactions (Ojha et al. 2012; Ribot et al. 2006; Sunam et al. 2013).

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NOTES

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 de-emphasise the role of other stakeholders.
3. FECOFUN is a federated body of community forest user groups across the country, and is recognised for its strong advocacy for community rights (<http://fecofun.org.np/>).
4. The names of interviewees have not been used in the paper to protect their anonymity as advised.
5. VDC is the lowest administrative and political unit of local governance in Nepal. Nine wards make up each VDC and several small settlements constitute a ward.
6. Churia refers to the fragile geographical range between Tarai low land and hill region extending from East to West in Nepal.
7. An alliance of park affected communities (Jana 2008).
8. Panchayati regime is an autocratic, active monarchical political system which was prevalent in Nepal from 1960 to 1990. During this period, policy making process was largely top-down, providing no room for voices of local people.
9. The National Trust for Nature Conservation (NTNC) is an NGO established in 1982 to work in the field of nature conservation in Nepal (<http://www.ntnc.org.np/>). Initially, it was King Mahendra Trust for Nature Conservation (KMTNC). However, it has been renamed NTNC after the monarchy was overthrown in 2008.

REFERENCES

Adams, W.M. and J. Hutton. 2007. People, parks and poverty: political ecology and biodiversity conservation. *Conservation and Society* 5(2): 147–183.

Agrawal, A. and E. Ostrom. 2001. Collective action, property rights, and decentralization in resource use in India and Nepal. *Politics and Society* 29(4): 485–514.

Apthorpe, R. and D. Gasper. 1996. *Arguing development policy: frames and discourses*. London: Frank Cass.

Bhatt, N. 2003. Kings as wardens and wardens as kings: post-Rana ties between Nepali royalty and national park staff. *Conservation and Society* 1(2): 247–268.

Blaikie, P. and O. Springate-Baginski. 2007. Understanding the policy process. In: *Forests, people and power: the political ecology of reform in India and Nepal* (eds. Blaikie, P. and O. Springate-Baginski). Pp. 61–91. London: Earthscan.

Budhathoki, P. 2004. Linking communities with conservation in developing countries: buffer zone management initiatives in Nepal. *Oryx* 38(3): 334–341.

Carpenter, R.C. 2007. Setting the advocacy agenda: theorizing issue emergence and non-emergence in transnational advocacy networks. *International Studies Quarterly* 51(1): 99–120.

Conway, D., K. Bhattarai, and N.R. Shrestha. 2000. Population–environment relations at the forested frontier of Nepal: Tharu and Pahari survival strategies in Bardiya. *Applied Geography* 20(3): 221–242.

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.

Dudely, N. 2008. *Guidelines for applying PA management categories*. Gland: IUCN: X + 86pp.

FECOFUN. 2011. *An update on FECOFUN's movement against Gaurishankar Conservation Area declaration*. <http://www.g3forest.org/userfiles/file/GACF/An%20update%20on%20FECOFUN%20Movement%20%20against%20GCA.pdf>. Accessed on February 5, 2012.

FECOFUN. 2009. *FECOFUN condemns the declaration of the GoN to establish Banke National Park, Gaurishankar, and Api Nampa Conservation Area*. Press Statement. <http://www.forestrynepal.org/article/195/4506>. Accessed on July 14, 2010.

Fujikura, T. 2001. Emancipation of Kamaiyas: development, social movement, and youth activism in post-Jana Andolan Nepal. *Himalaya* 21(1): 29–35.

Giri, B. 2009. The bonded labour system in Nepal: perspectives of Haliya and Kamaiya child workers. *Journal of Asian and African Studies* 44(6): 599–623.

Heinen, J.T. and J.N. Mehta. 2000. Emerging issues in legal and procedural aspects of buffer zone management with case studies from Nepal'. *The Journal of Environment & Development* 9 (1): 45–67.

Heinen, J.T. and S.K. Shrestha. 2006. Evolving policies for conservation: a historical profile of the protected area system of Nepal. *Journal of Environmental Planning and Management* 49(1): 41–58.

International Labour Organization (ILO). 1989. *Convention concerning indigenous and tribal peoples in independent countries (No 169)*. ILO Geneva, Geneva, 76th ILC session (Junr 27, 1989). http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C169. Accessed on November 27, 2013.

Jana, S. 2008. *Protecting people in protected areas: recapitulating rights campaign in lowland protected areas of Nepal*. Kathmandu: The Press Unlimited, Community Development Organization.

Lam, L.M. and S. Paul. 2014. Disputed land rights and conservation-led displacement: a double whammy on the poor. *Conservation and Society* 12(1): 65-76.

Marston, G. 2004. *Social policy and discourse analysis: policy change in public housing*. Ashgate Publishing.

Nightingale, A.J. and H.R. Ojha. 2013. Rethinking power and authority: symbolic violence and subjectivity in Nepal's terai forests. *Development and Change* 44(1): 29–51.

NPWC Act. 1973. National park and wildlife conservation (NPWC) Act 1973. Kathmandu: Government of Nepal.

NTNC. 2010. *Gaurishankar conservation area project*. Kathmandu: National Trust for Nature Conservation.

Ojha, H.R., J. Cameron, and C. Kumar. 2009. Deliberation or symbolic violence? The governance of community forestry in Nepal. *Forest Policy and Economics* 11: 365–374.

Ojha, H., N. Timsina, and D.R. Khanal. 2007. How are forest policy decisions made in Nepal? *Journal of Forest and Livelihood* 6(1): 1–16.

Ojha, H.R., N.S. Paudel, D.B. Khatri, and D. Bishwokarma. 2012. Can policy learning be catalyzed? Ban Chautari experiment in Nepal's forestry sector. *Journal of Forest and Livelihood* 10(1): 1–27.

O'Riordan, T. and S. Stoll-Kleemann. 2002. Deliberative democracy and

- participatory biodiversity. In: *Biodiversity, sustainability and human communities: protecting beyond the protected* (eds. O'Riordan, T. and S. Stoll-Kleemann). Pp. 87–112. Cambridge: Cambridge University Press.
- Paudel, N.S., P. Budhathoki, and U.R. Sharma. 2007. Buffer zones: new frontiers for participatory conservation. *Journal of Forest and Livelihood* 6(2): 44–53.
- Paudel, N.S., S. Jana, and J. Rai. 2010. *Protected areas and rights movements: the inadequacies of Nepal's participatory conservation*. Discussion Paper Series 10: 3. Kathmandu: Forest Action.
- Paudel, N.S., S. Jana, and B. Khatiwada. 2012. Contestation and citizen-led negotiation around the establishment of protected areas in Nepal Himalaya. *Journal of Forest and Livelihood* 10(1): 42–57.
- Pretty, J. and D. Smith. 2004. Social capital in biodiversity conservation and management. *Conservation Biology* 18(3): 631–638.
- Rai, J.K. 2011. *Restructuring protected areas: exploring democratic governance framework of conservation areas in Nepal. A Roundtable Interaction*. Kathmandu: ForestAction.
- Ribot, J.C., A. Agrawal, 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, CT: Yale University Press.
- Shankland, A. 2000. *Analyzing policy for sustainable livelihoods*. IDS Research Report 49. Brighton: Institute of Development Studies.
- Shrestha, U.B., S. Shrestha, P. Chaudhary, and R.P. Chaudhary. 2010. How representative is the protected areas system of Nepal? A gap analysis based on geophysical and biological features. *Mountain Research and Development* 30(3): 282–294.
- Stevens, S. 2013. National parks and ICCAs in the High Himalayan Region of Nepal: challenges and opportunities. *Conservation and Society* 11(1): 29–45.
- Sunam, R.K., N.S. Paudel, and G. Paudel. 2013. Community forestry and the threat of recentralization in Nepal: contesting the bureaucratic hegemony in policy process. *Society and Natural Resources* 26(12): 1407–1421.
- Tarrow, S. 1994. *Power in movement: social movements, collective action and mass politics in the modern state*. Cambridge: Cambridge University Press.

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