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(We apologise for the unfinished nature of this paper. Some of the citations are incomplete and we see this very much as a work in progress. We look forward to discussing it with you at the Workshop.)

Authority in Nepal's Terai Forests: power, subjectivity and deliberative politics

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Introduction

Nepal's political system is in rapid transition following the end of the Maoist People's War and overthrow of the King in 2006, and the subsequent formation of a Federal Democratic Republic in 2007. A radical-left coalition, led by a Maoist party in 2008, won an electoral majority (surpassing the two biggest parties that ruled the country in the post 1990 period). The conflict period animated the political agency of people in diverse localities with profound implications for state processes particularly the manner in which, and the types of institutions the central state and donors sought to engage. Such 'institutional choice' (Ribot, Chhatre, and Lankina 2008) by the state and donors significantly structured local autonomy and centralised authority. While the conflict produced pressure for decentring centralised control – coming from all directions including developmentalism and the feudal polity – the conflict was indeed more complex in terms of claims to greater autonomy at multiple scales and directions.

In the forestry sector, this was particularly evident as in some places the Maoists had entirely taken over forest user-groups and in other places user-groups were key local institutions resisting Maoist demands. Likewise, at times, local landless people formed alliances to resist even the decentralised and widely acclaimed institutions of community forestry, demanding community forest lands in the Terai for agricultural cultivation for meeting basic needs and survival.

Importantly, donors and village level institutions had to engage with new sets of actors during this time, leading to increased 'capacity' and also proliferation of institutions at a variety of scales. Now the Maoists would like to institute a centralised state, founded on networks of loyal cadres

embedded in localities, but this vision is significantly at odds with the decentralised objectives of many forestry projects, and indeed, of many local institutions throughout Nepal.

In this paper we want to think through issues of authority and post-conflict state building processes by drawing on forestry research done in the Terai, or low-land plains of Nepal. The Terai has been a particularly contentious site for community-oriented forestry programmes for three key reasons: 1.) the valuable hardwood *Sal* forests of the Terai have been a vital source of income and wealth for contractors, government forestry employees and, to some extent, villagers. Any attempt to unsettle locally specific bargains and 'understandings' between different players is thus fiercely resisted, while at the same time, there is agitation for new players to have a bigger stake, particularly at the village level. 2.) Usufruct and historical tenure rights to the Terai forests are not necessarily spatially contiguous and have been complicated by large scale migration of people from the Middle Hills to the Terai over the past 50 years. People who live next to the forest do not necessarily have the oldest or most valid claim to manage it and this ambiguity has been mobilised in the contestations that have emerged. 3.) The institutions established to manage forests (both legal and 'illegal') are complex and are increasingly embroiled in multifaceted and rapidly shifting political party processes. In other words, questions of authority and governance are complex and bound up in the ecological context and proliferation of institutions that have a stake in forestry management. As a result, particular forms of authority and contestations of those authorities emerge in the Terai that are different from, yet embedded within processes of institutional emergence in other parts of Nepal.

In order to understand this context, we draw from Hemant's work on deliberative politics and symbolic violence and Andrea's work on political ecology, power and subjectivity to develop an argument about the processes that have produced or undermined particular institutional forms or governance practices in Terai forestry. We aim to demonstrate how the ecosystems and spatiality of the Terai are produced as diverse and contested regimes of governance, and show how these processes are reproductive of culturally grounded codes that underpin authority. In so doing we problematize diverse claims to democratization, participation and development which are

articulated as improvement in socio-ecological conditions. This analysis reveals that such notions of progress and improvement are themselves discursive instruments used by the dominant actors to hide reproduction and continuity of the culturally ingrained political technologies of control and hegemony. Here we combine subjectivity and a Bourdieuan notion of 'doxa' to show how conscious and unconscious cultural codes underpin human agency in forestry debates. Central to our argument is an exploration of how power is legitimated and enacted in multifaceted ways, through the performance of subjectivities and (re)production of 'doxa' to shape how different institutions gain authority.

Our argument is predicated on the ontological presupposition that 'global' discourses of development and conservation intersect with antecedent conceptions and institutions in the forestry sector. We identify at least three intersecting sets of reproductive codes underpinning authority and power in the context of forestry section in Nepal. First, we explore how Nepal's feudal history has shaped the cultural codes that underpin authority. Second, drawing from work on the multiplicity of the state (Ferguson and Gupta 2002; Hansen and Stepputat 2001; Lund 2006) and from the prior work of one of us (Ojha 2006), we demonstrate the way that the techno-bureaucratic codes in forestry reinforce feudalistic codes of the larger polity thus constraining space for deliberative possibilities in local forest dependent communities. Third, post World War II development practice has generated and sustained developmentalist codes - such as scientisation, modernisation, professionalization - which intersect with feudal and techno-bureaucratic codes to shape deliberative politics and the enactment of power and authority forest governance. Our analysis shows that there is the potential in these deliberative processes for real transformations in governance and subjectivities but simultaneously a (re)entrenchment of hierarchical, feudalistic and technocratic codes of authority. From this analysis we locate a new frontier of research and radical politics that link power and authority to such dialectical (re)productions of discourse, doxa and subjectivity in institutions and contexts that are located in history, culture and place.

Enacting authority: blurry institutions and the modernisation of tradition

Hemant's earlier work explored how 'doxa', or the symbolic codes that underpin interactions, were enrolled in Terai forest management, shaping interests and choices of various actors as well as interactions (Ojha 2008). Here we want to expand this analysis to think carefully about how different institutional forms emerge and importantly in the present context, proliferate, as forestry touches upon post-conflict political transition and with what consequences for the embedding of particular forms of authority. The idea is to explore the ways through which multiple claims to power and authority are challenged through explicit resistance, and at the same time reinforced in new forms of institutional processes which at times appear quite radical.

We begin with an understanding of the state as composed of multiple actors that are not necessarily neatly nested into hierarchical scales or that follow a consistent set of practices. The state, in other words, cannot be reduced to 'government'. This kind of understanding follows recent work in anthropology, political science and related fields that conceptualise the state as "the quality of an institution being able to define and enforce collectively binding decisions on members of society," (Lund 2006, p. 676). In this sense, the state is not neatly separated from civil society and requires us to investigate the production of "*institutional forms* as well as the processes that bring about the *idea* of the state," (Lund 2006, p. 676). In the Nepal context, we see a particular blurring between government sponsored forestry institutions such as District Forest Offices and state-donor sponsored programmes like Community and Collaborative forestry. They are blurred both because of the ways they engage in forestry management, but also because of the ideas they draw upon to claim the right to govern (Nightingale 2005). As we explore how these groups engage in deliberative practices, we see more clearly the importance of the symbolic codes of legitimacy that underpin authority and the ways the two processes shape institutional emergence.

Ribot and Chhatre have articulated a notion of 'institutional choice' to highlight the ways that donors choose particular local level institutions with which to interact (Ribot, Chhatre, and Lankina 2008). They pay close attention to the consequences of such choices for local authority. In Nepal

we translate these ideas to think about how programmes like community forestry and collaborative forestry management support or undermine 'traditional' authorities such as village headmen that are embedded within feudalistic codes of practice. When community forestry user-groups place women and Dalits on their committees, does that serve to unsettle those 'traditional' forms of authority?

The proponents of deliberative practice have attempted to illustrate various ethical, normative and epistemological values of deliberation in organising governance of human beings. The notion of deliberation is founded in the Kantian moral tradition that all humans are equal and no one has any right to strategically manipulate the other. This means that decisions affecting multiple groups should be settled through open deliberations without the powerful strategically manipulating the other. This is precisely what Habermas, extending the Kantian tradition, meant by 'communicative rationality' (Outhwaite 1996; Habermas 1987). To Habermas, 'communicative rationality' is arrived at through domination-free interactions among humans, and as such underpins an ideal of deliberative governance. This approach to governance is being increasingly emphasised as an alternative to liberal democracy, which places at the forefront the primacy of individual self-interests and a thin notion of political legitimacy confined to periodic election of political leaders (Chambers 1996 and 2003; Dryzek 2000; Fischer 2003; Sitton 2003). Central to Habermas' (1990) thesis is "discourse ethics", which stipulates that the legitimacy of any use of restraint (such as 'rules' or 'penalties') is justified only when the subjects choose it freely. As he argues, "only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity as participants in a practical discourse" (Habermas 1996). This line of thinking in governance has also inspired research and policy on environmental governance (Smith 2003; Parkins and Mitchell 2005). Here we want to keep deliberation as a backdrop for how we understand different kinds of authority, but build into our understanding of it an explicit dynamics of power.

Symbolic violence and subjectivity – cultural politics of authority and power

While deliberation or “practical discourse” is proposed as a process for enacting democratic governance without engaging in the substantive directions of change (which is left up to the deliberating political actors), inequalities between human agents in terms of class, regional identities, cultural differences and gender have posed a serious challenge to the realisation of the ideals of deliberative procedures in governance. Recognising this challenge, a significant body of scholars has explored the conditions and possibilities of deliberative practices. We use Bourdieu’s concept of symbolic violence, which constitutes a key element of his well-known ‘theory of practice’ (Bourdieu 1977; 1991 and 1998) to think through how deliberation can emerge in and through power. Symbolic violence refers to a situation in which more powerful actors continue to enjoy unchallenged privileges in accessing resources and power (as Bourdieu conceptualises it), through which they dominate social interactions, including deliberative practices.

Bourdieu is centrally concerned with understanding social practices and hence seeks to develop a theory of practice, not a theory of theory. In order to understand practices, he begins by delineating tentative social fields such as sports, music, education, politics and media, each of which has a relatively distinct boundary and internal logic guiding social practices. As such, the concept of a social field provides a manageable context for social agents to define domains of interaction and research social practices. But the field is not a level space, nor is it a neatly demarcated arena impervious to the influences of other social fields. It is structured and differentiated through the structure of access to different forms of capital - that is all the resources valued in the field by the various groups of social agents active in it.

Within a field, social agents engage in diverse forms of interaction - including communicative acts, dispositions and exchange of capitals, competition and conflict. Each field of practice contains an array of assumptions on values/significance/risks/uncertainties that are available to, and utilised by, social agents enacting practices in the field. These tacitly held assumptions are part of what Bourdieu calls a ‘doxa’. A doxa comprises principles and values embedded in a social field that

serve two key functions: first, they limit the space of inquiry to a manageable level to make decisions, and second, they provide legitimacy to authority and power relationship as they relate to social practices. While being useful in organising social practices and interactions, doxas are also a potential breeding ground for contestation of values and symbolic violence by those rich in various capitals who are able to deflect challenges from competing values by repressing their expression in decision-making contexts. In other words, people can draw on doxas, both consciously and unconsciously to exercise power over others, thus leading to certain forms of authority and power relations. Here the parallels with Foucault and feminist theory are strong as in those latter traditions, as the subject is produced out of discourses which are both symbolic and material (i.e. gender) (Butler 1990, 1997; Foucault 1990, 1995). We elaborate on feminist understandings of power below.

Bourdieu's notion of human agency assumes significant degrees of internal structuring, having a dialectical interface with wider social structures, all tuned to specific social actions. When an actor's cultural codes mismatches with the regularities of a field, a crisis occurs, through which the actor is likely to become more reflective in social practice, and the doxic assumptions are brought to the level of discourse or deliberation. In feminist theory, power and agency are conceptualised somewhat differently (Allen 1999; Butler 1997; Foucault 1990, 1995; Nightingale 2009) Importantly, the subject is understood as the *effect* of power and social identities such as caste, ethnicity, race and gender are produced out of practice (performance in Butler's words) as well as symbolic domains (Allen 1999; Butler 1997; Nightingale 2009). Subjects are both the product of external influences—the subjection of the state or other institutions, for example—and the internalisation of this subjection by the subject itself. In other words, the subject must at some level take up or assume the subject position assigned to them (Mahoney and Yngvesson 1992; Nightingale 2006). Power, however, does not necessarily imply 'power over'. Rather, the subject is produced out of the multi-dimensional aspects of power. It is power that produces the subject, and power gives the subject the ability to act, whether that be in compliance with or in resistance to the processes of subjection (Butler 1997; Mahoney and Yngvesson 1992; Nightingale 2006). In Nepal, caste is an excellent example of this whereby people of 'lower castes' accept (often not consciously) and

participate in their own subjection every time they avoid entering a space considered off limits to them *as well as* when they claim rights on the basis of their subjection as 'lower castes'.

Power is thus always already present in all social interactions and is the means through which subjects *can* act. When we bring these ideas into conversation with Bourdieu's ideas of symbolic violence and doxa, we can understand how symbolic violence requires the collusion of all actors and (re)produces doxas in everyday practices of forest management. Authority then, arises from the mobilisation of particular doxas (very similar to discourses in Foucault's theory) and the performance of particular subjectivities. The subject, of course, is not always a passive recipient of power, but rather we see the subject emerging out of the exercise of power in contradictory and multifaceted ways. In each interaction, there is the possibility for power to be enacted as 'power over' and 'empowerment' *simultaneously* (Nightingale 2006), in addition to more blurry movements of power that can be best visualised as lateral or diagonal (Nightingale 2009).

When we explore institutions and deliberative practices, therefore, we understand them to be always already infused with power. And it is through these deliberative processes that power is enacted among different groups. It is power that *allows* them to be deliberative, rather than evidence that a deliberative process is not occurring. But if the exercise of power in a deliberative practice is simply 'power over', or 'empowerment' by marginalised groups, there is very little shift in the symbolic fields that constitute particular forms of subjection. We see more potential in the more complex, and multifaceted exercise of power—lateral or diagonal—for a deliberative process to bring doxas into view and cause a radical shift in the social field. In Bourdieu's framework, symbolic violence is a situation of domination achieved through culturally-deep ordering of actors in a social space, whereby social agents occupying both dominant and dominated positions in the field accept the existing order and practices as being 'natural'. Feminists speak of this as well in terms of how 'gender' produces a particular hetero-normative ordering of the social world (Butler 1990).

In this situation, it is difficult to openly challenge authority because any such challenge would simultaneously serve to re-entrench the doxas that underpin the exercise of authority. Bourdieu suggests that radical change occurs through crises that result from the dissonance between actors' mental codes and field, and from external pressures on the field challenging the dominant doxic assumptions. This may be triggered by changes in wider socio-political or natural systems, which can be co-terminus with the evolution of a more radical and discursive behaviour of the dominated agent. Feminists see this process as occurring through performance, and particularly when the performance of subjectivities explicitly (and consciously) challenges the subject, for example, when transgender people perform an ambiguous gender identity that unsettles hetero-normativity. Feminist theory, however, shies away from understanding how such processes may occur at collective levels, for example institutionally (Nightingale 2009). Bourdieu's theory of change is that if crisis and the potential for higher quality deliberation are simultaneously linked to the enhanced access of the dominated agents to symbolic capital, this might lead to discontinuity in social practice, creating space for challenging authority.

In this paper, therefore, we link together an understanding of the exercise of power that derives from feminist theory with attention to how deliberative spaces are produced out of crisis and the multi-lateral exercise of power. While perhaps a bit eclectic theoretically, it allows us to illustrate how particular kinds of subjectivities emerge in relation to forestry management and the ways that the conflict/post-conflict context has created institutional forms and spaces wherein antecedent forms of authority have been simultaneously challenged and entrenched. To be more specific, in Terai forestry, we explore how community forestry, collaborative forestry, the District Forest Offices (DFO) and advocacy NGOs like the Federation of Forestry User Groups (FECOFUN) are all institutions that are able to claim authority by mobilising particular understandings of the state as well as other forms of power. These other forms of power derive from antecedents that are particular to the Nepal case (but have resonances with other places as well (Chhatre 2007; Lund 2006; Sivaramakrishnan 1999)).

Forestry and authority: where the feudalistic, technocratic and participatory meet

“Nepal’s Wealth is her Green Forests”

Nepali proverb

Forests have taken a central place in national and local processes of authority in Nepal because of their importance to rural livelihoods and state revenues. The history of forest governance in Nepal is dominated by the strategic interests of ruling political elites and forest technocrats and, until recently, there was limited scope for civil society to participate in the formulation of policies. Yet because of their importance to any attempts at accumulation, whether in the agricultural sector or through semi-legal commercial forestry endeavours, forestry matters are able to mobilise people in ways that many other issues cannot (Nightingale 2005).

There are three ‘doxa’ or symbolic codes that we believe are most important in the forestry field in Nepal: the ‘feudalistic’, ‘technocratic’ and ‘developmentalist’ and they operate at a variety of scales. While in some respects drawing clear distinctions between them is problematic, they have somewhat different historical antecedents. In this section we explain what we mean by these terms and briefly outline their origins in Nepal.

Feudalism

Historically, forests were central to the Rana and Shaha governments’ strategies to maintain sovereignty. Ruling elites awarded large tracts of land to military leaders and other aristocrats to ensure their loyalty (Regmi 1978). While the tenure arrangements were varied and complex, they all allowed some form of taxation and control over natural resources by feudal landlords, in effect disfranchising villagers from their resources, at least in part. Under the monarchy and Rana oligarchy, feudal relationships were multi-scalar with smaller landlords and village headmen accountable to the feudal landlords that were recipients of lands granted by the state (Regmi 1978). Until the Private Forest Nationalisation Act was enforced in 1957 all forests were controlled by state-sponsored local functionaries. In most places they received small gifts of food in exchange

for granting access to forest resources such as timber, while firewood collection and grazing privileges tended to be part of the feudal tenants' rights.¹

Forests were thus institutionally embedded within (and significantly productive of) what was a hierarchical and highly feudalistic society. While in some respects 'land reform' has occurred and the state no longer issues land grants to aristocrats, feudalistic relationships are alive and well. In many parts of Nepal old feudal terms continue to be used such as '*luhar*' and '*bista*' (servant and master referring to bonded labour arrangements) or '*mukiya*' which is a headman and tax collector. The feudal system was characterised by patron-client relationships where peasants had to provide labour and grain to the landlords in exchange for rights to tenure and share cropping arrangements. Authority was thus highly structured by land tenure arrangements which helped to materially as well as symbolically entrench exceedingly unequal social relations. Within this system, however, the role of the patron was also important. Landlords had obligations towards those less well off and at certain times of the year, during important festivals or in times of crisis, people could call on these obligations to receive food, money and other forms of support from their patron. These arrangements did not serve to unsettle the hierarchical nature of authority—rather we suggest it helped cement it—but nevertheless illustrates some of the complex workings of power. Authority may be hierarchical (even if under certain circumstances '*luhar*' could exercise authority over their '*bista*' in the sense of claiming rights and resources), but power is not necessarily. Power is exercised in multi-directional ways under such a system as people are able to manipulate and capitalise on particular circumstances to shift the normal order of things.

In this feudalistic doxa then, authority is claimed on the basis of right—whether that be by feudal masters or by 'tenants'—and rest firmly on entrenched subjectivities. Hierarchical identities define how people sit within the social order and therefore what kinds of rights and power they can exercise in particular contexts (Ojha, Timsina, and Khanal 2007). In present day Nepal, the feudalistic mindset remains strong even as a number of recent processes, the conflict most notable

¹ Not all people under the control of feudal landlords were technically 'tenants'. Many people owned their own land even if the landlord controlled the common lands.

among them, have significantly challenged these hierarchies. As a result, there is still a strong sense that one needs to have 'source-force' or their 'own' (*afnomanche*) people in strategic positions within various institutions in order to have influence. This has been significant in the forestry sector as different groups of people have come to see different institutions as beneficial to them (or not) on this basis.

The Technocratic

During the Rana period in the early part of the twentieth century, 'modern' (Latour 1993) technocratic ideas of forest management began to infiltrate down to localities through the land grant process. By 'technocratic', we mean a system of forestry that is predicated on scientific management and controlled through a bureaucratic planning structure. Scott provides an excellent account of the rise of technocratic, scientific forestry in Germany during the nineteenth century (Scott 1998). Two features in particular are important: the valorisation of 'professional' expertise in knowing how to manage trees properly, and the homogenization of forests into stands of trees (often mono-culture although in Nepal such stands are more accidental than planned) as opposed to diverse ecosystems (Nightingale 2005). It is possible, of course to retain a technocratic approach and shift the emphasis towards ecosystem management (indeed, such schemes are highly technocratic), but in Nepal, technical forestry continues to be dominated by 'old fashioned' ideas of forest (tree) management.

Centralised and technically-oriented, colonial approaches continue to be reproduced and dominate policies and day to day practices of forest management in the Global South more generally (Peluso 1992; Roth 2004; Sarin 2005; Scott 1998; Shivaramakrishnan 2000). Over centuries, the process of scientisation and bureaucratisation have been "doxic"— a situation in which taken for granted values are enacted automatically in practice, without much questioning, both by those who are dominant and those who are dominated. As a result of such a culturally embedded techno-bureaucratic approach to forest governance, the institutions that have authority over forestry

management need to be fluent in these cultural codes, and of course which institutions emerge are in part derived from those codes.

The Ranas, presumably influenced by trends emerging in Europe, began to propound ideas of technical forestry as early as 1918 by issuing guidelines on how harvesting should be done and what kinds of products could be taken from the forest (i.e. only dead wood could be used for firewood) (Nightingale forthcoming). But the technocratic 'doxa' in forestry really took full force in the 1950s with the establishment of the District Forest Offices and the promotion of technical forestry experts to run them. It is in this era that the forestry profession, schooled in colonial and professional practices of forestry, was transplanted into the bureaucracy, allowing for minimal civic engagement in forestry matters. A series of laws² were enacted to enforce national control over forests by the expanding forest bureaucracy, all of which excluded local people. Although it was assumed that state control of what were previously private (or village) forests would enhance people's access to resources, the state created a strong techno-bureaucratic field by instituting stringent regulations to exclude people from controlling forest resources (Malla 2001; Ojha 2008). In this regime, authority is claimed through an idealised notion of the state and based on notions of expertise that give added legitimacy to state actors. Importantly, many institutions that have arisen to combat state power, such as the national Federation of Forestry User-Groups (FECOFUN), have adopted many of the practices of the technocratic state in their own operation (Ojha and Timsina 2008).

The state thus began the process of planned development after World War II, and national bureaucracies assumed political-economic control of society as per the interests of the ruling elites (Blaikie 2001). While the feudal rulers of the country appropriated forest lands and trees for their benefit (Regmi 1977), the advent of the modernization project in Nepal in the name of development contributed to the expansion of the technocratic state (Blaikie 2001). It is to that modernization project that we now turn.

². Two laws are noteworthy here – Forest Act 1961 and Forest Protection Special Act 1967. The latter even authorised local forest guards to shoot people using forest illegally.

Developmentalist-state

State control of forests proved to be unsuccessful leading to demands on the Nepali state in the 1970s to take a different approach (Gilmour and Fisher 1991; Malla 2001). International concern over an impending environmental crisis (Eckholm 1975) created increased moral pressures on international development and environmental institutions and Western governments to contribute to the conservation of the degrading Himalayas. This led to an environmental turn in the development discourse away from an emphasis on infrastructure and technology transfer (Cameron 1998) to environmental conservation and community participation. Nepal's strategic geopolitical situation (being located between China and India) and fragile environmental condition attracted bi- and multilateral donors (Metz 1995),³ who took forestry and environment as the key elements of integrated conservation and development projects. Thus, the twin crises of the environment and poverty in the late 1980's have led to the evolution of participatory forestry practices (Hobley 1996; Malla 2001), catalyzing a substantial shift in how the technocratic state approached forestry and opening up more space for local scale actors even while retaining an emphasis on standardised technologies.

Developmentalism we therefore use to capture the environmentalist/conservationist discourses that have permeated the forestry sector and helped to cement the importance of 'expertise' in management. Indeed, it is through the developmentalist era that the importance of management plans, training and recording keep, as well as decentralisation became the norm. Nepal was at the forefront of a global trend. Over the past few decades, community-based forest management has evolved as a key strategy of conservation as well as promoting local livelihoods, especially in developing countries. Efforts towards decentralisation, which have emphasized policy changes towards devolving power, and hence providing greater autonomy, to local communities have been advocated across the developing world and increasingly, even in Europe and the USA (Ribot 2003; Colfer and Capistrano 2005; Agrawal and Ostrom 2001). One of the assumptions behind this

³. Initially World Bank and FAO, then a group of bilateral and international actors influenced national government towards the process of devolution of forest governance.

strategy is that local communities, when legally empowered to take control of forest resources, can develop local-level institutions to organize sustainable use of forest resources. Yet it remains unclear if these efforts can unsettle the persistence of 'doxic' or the taken-for-granted hegemony of 'forestry science' in management institutions. And despite popularization of participatory and deliberative approaches to governance of environmental resources (Fischer 1999; Dryzek 2000; Fischer 2000; Smith 2003), there is still a predominance of technocratic values and practices in environmental decision-making (Backstrand 2004; Pokharel and Ojha 2005).

Questions thus persist with regard to the nature, extent and modality of power sharing between the state and local community, and their effects on livelihoods and the sustainability of the resource system (Ojha et al. 2008). The issue of decentralization has been further complicated in view of some surprising claims that decentralization has actually contributed to an extension of state control of forest, rather than providing genuine, autonomous spaces for local people to engage in livelihoods development and resource conservation (Nightingale 2005; Sarin 2005). Despite the popularisation of participatory management over the past two decades, the processes of policy making, programme planning and implementation in the forestry field are still guided by the technocratic mindsets of experts, planners and officials (Backstrand 2004; Nightingale 2005; Pokharel and Ojha 2006; Ojha et al. 2007; Blaikie and Springate-Baginski 2007), with limited opportunities actually available to local community groups and civil society networks to influence the policy-practice nexus. Such a technocratic emphasis tends to hide the politics inherent in policy making and local-level forest management (Nightingale 2005), and hence minimize the opportunities for deliberative and participatory policy processes. This is particularly so in the forestry sector in which the colonial legacy of forest science and centralised state forestry institutions continue to exist (Peluso 1992), at least in the mindsets of forest officials working at the state level. The bases upon which authority is claimed and maintained, therefore, are crucial to explore. And, importantly, particular kinds of subjectivities and 'doxa' are (re)produced in processes of authorisation.

Even when there is a significant level of local autonomy granted by state policies and regulations, local community groups, which are generally characterized by socio-economic and cultural heterogeneity, often fail to effect governance that is internally deliberative, inclusive and equitable at the local level (Varughese and Ostrom 2001; Nightingale 2002; Adhikari and Lovett 2006). While conservation and development projects have adopted a wide range of strategies to support and enable local communities to design and practise management activities that benefit the poor, there are still issues on how programme strategies better help overcome local-level issues of exclusion and inequity (Nightingale 2002, 2005; Paudel et al. 2006). There are even claims that unintended outcomes of projects often reinforce existing, inequitable practices of resource control and use (Malla 2000; Nightingale 2006). Thus an exploration of how authority is (re)produced is vital in this context.

Authority in Nepal's forest sector

To illustrate the processes of symbolic violence and deliberation and the kinds of authorities they produce, we use the example of recent forestry conflicts in the Terai. First, we give a bit more background on the Terai and then explore community forestry vs. collaborative forestry management.

The Terai is known colloquially as *madesh*; a often under-studied (Lal 2002), flat area, about 20 km wide, part of the vast sub-tropical, low-lying plain – which is as low as 60m above sea level – lying along Nepal's southern border and directly supporting the livelihoods of about half of the country's people. The area is part of the Gangetic plains at the foot of Himalaya extending through parts of Bihar and Uttar Pradesh in India from the Yamuna River in the west to Brahmaputra in the east. Despite the prolific resettlement and migration of people from the hills, the symbolic image of Nepal's Terai is still associated with *madhesi* groups (people living in the Terai who share their culture with North India).

The region is unique in the country from various points of view. It contains all the three ancient civilizations of Nepal – Simraungarh, Mithila and Lumbini (Lal 2002). It has open borders with India, making possible the free flow of people across the border. It contains the nation's most productive agricultural land, and has relatively large blocks of high value *sal* forests (Brown 1998). Its marshy land is the habitat of endangered wildlife such as tigers, rhinos and crocodiles. The country's only east-west highway passes through the heart of the Terai, in which are situated most of Nepal's major cities apart from Kathmandu and Pokhara. It contains an expanding network of growing small towns and industries. Despite these important cultural and ecological assets, the value of the Terai as a region and the influence of Terai residents in national governance have been limited. This has caused numerous protests, blockades and violence in the Terai over the past two years as groups there have become galvanised politically. These movements are complex, but are certainly linked to issues of resource governance.

In the Terai, three groups of people are identifiable in terms of their attachment to the location: a) indigenous groups such as *tharu* and *dhimal*: (two ethnic groups living in the Terai) b) Indian immigrants, and c) *pahade* (hill) immigrants. Indian immigrants⁴ were encouraged by the ruling elites for political, and *pahade* people for political-economic reasons. The area is increasingly dominated by recent immigrants from the hills of both Nepal and India, and there are claims that indigenous groups have been marginalised in their own land (Chaudhary and Chaudhary 2005) and often find it difficult even to get citizenship papers (Upreti, in press). The religious composition of the Terai's population is also changing as a result of the growing influence of Islam and Christianity. The issue of land and forest control is not just an issue of state versus community (Timsina and Naudel 2002); it is driven by an undercurrent of debate on *pahade* (people of hill origin) versus *madhise* (people of Terai origin), immigrant versus indigenous groups, and other symbolic distinctions. The geographic distribution of resources (almost all the forest is located in the northern belt of the Terai) and people (hill migrants in the north and indigenous groups and

⁴ There are some who claim that the *pahade* have been in Terai as long as 100 years, which means that they are not always new migrants (Gautam, in Press).

migrants from India in the south) further complicates the issue of forest governance-related deliberation.

Until early 1900 the area was retained as a forested barrier against possible colonial invasion. During the twentieth century, it was slowly converted to agriculture in order to increase tax revenues for the state, which was controlled by feudal-aristocratic groups (Regmi 1977). Once malaria was controlled in the 1960s, (one of Nepal's initial western-supported development interventions), the region became attractive to people from both the relatively resource-poor and landslide-affected hills areas and those fleeing from northern India in search of productive land (Shrestha 1982; Shrestha 1989). With its considerable differences in landholdings coinciding with diverse cultural axes of social differentiation such as caste, class, ethnicity, and gender, the Terai represents one of the most complex social settings in Nepal.

In the past three decades, about a fifth of the Terai has been afforded protected area status, largely under the influence of the western environmentalist discourse which coincided with the interests of the local feudalistic and techno-bureaucratic regimes. While Nepal received substantial funds for the implementation of community forestry in the hills, the Terai remained under relatively modest donor involvement. As part of state initiatives to manage forests, various regimes have been created. The boundaries of these regimes are, to varying degrees, under constant dispute among diverse sets of social agents.

The table below outlines some of the key institutions that govern forestry in the Terai. These regimes are constituted through historical processes of struggle over meanings and material resources around the forest, and currently each reflects a particular configuration of institutions and subjectivities that allow particular actors to access material and symbolic benefits from that regime.

Table 1. Regimes of Governance, Regulation and Current Status

Regimes of Governance	Existing Regulatory Arrangement	Current Status/Scale in Practice
1. Community Forestry (CF)	Forests handed over to local communities when 'willing and able to manage' (Article 25 Forest Act 1993).	7.2 percent of total Terai forest handed over as CF to 13.8 percent of households
2. Government Managed Forest (GF)	National forests managed directly by government (Chapter 3 of the Forest Act 1993)	All forest not handed over for community or leasehold forestry. Management confined to protection by forest guards.
3. Collaborative Forest Management (CFM)	Local Self-Governance Act, 1999 and provision of District Forest Coordination Committee	Pilot initiatives in BISEP-ST, LFP areas but no concrete successful model has emerged yet, despite heavy input from donors and government.

4. Protected Area (PA)	Wildlife Conservation Act 1976	Five protected areas covering 2,889 sq km.
5. Buffer Zone (BZ) Management	Buffer Zone Regulation 2052 as per the Wildlife Conservation Act	Adopted in Chitwan, Bardia, Koshi Toppu and Sukla Phanta
6. Conversion to Agricultural Lands (CA)	Illegal according to the Forest Act 1993, but some provisions for land registration exist in the Land Registration Act	Forest areas being converted into agricultural land annually at 1.2 percent
7. Leasehold Forestry (LF)	Section 32 (1) of the Forest Act, 1993, and Rule 40 of the Forest Regulation 1995 MPFS*	2871 leasehold forest user groups (LFUG) consisting of 23,243 households in 20 districts.
8. Private Forestry (PF)	Forest Act, 1993 MPFS	NGOs and local people resisted privatisation of Bara Forest in late 1990s.

9. Religious Forest Act 1993

Forestry (RF)

This forestry approach is operational in some Terai districts such as the Mahottari, Dhanusha, Morang and Rupandehi districts of the Terai sub-region.

Source: author

MPFS = Master Plan for the Forest Sector: DFRS: Department of Forest Research and Survey BISEPT-ST: Biodiversity Support Programme for Siwalik and Terai (funded by Dutch Government), LFP: Livelihoods and Forestry Programme (funded by DFID) FECOFUN = Federation of Community Forestry Users, Nepal

Most Terai forests (about one-third of the total Terai area⁵) are still officially 'government-managed forests', but in reality this is the forest of forest bureaucrats, timber traders and feudal politicians, and not government forest in the spirit of public property, where people as citizens can decide what they want. The three dominant symbolic codes (feudalist, technocratic and developmentalist) together have been able to create the misrecognition among local people that a large proportion of high-value forests with *sal* and 'big trees' cannot be owned by local 'small' people.⁶ People who need forest land, timber or fuelwood for their subsistence have to engage with any or all of the three groups either in the form of *chakari* (a cultural practice of sycophancy) or bribery, unless they have an *afnomanchhe* (literally, 'one's own people', i.e. a connection to powerful people) through which they can mobilise *source-force* (exercise of influence through powerful position) to acquire needed forest land or products. In other words, the technocratic bureaucracy of the District Forest Office is able to exercise authority over people wanting forest products. Yet, they exercise power in complex ways. They can use their uniforms and offices (people often have to petition in the offices standing while the office staff are sitting) as representatives of the state to insist on certain conditions. When they take bribes, while not undermining their authority as state actors, it is nevertheless a powerful marker of another kind of authority. In some respects, they become the state, while remaining a patron who needs to be satisfied before access to resources is granted. The need for *afnomanche* shows this clearly, as this has its roots in the feudalistic patron-client regimes and people seek to create *afnomanche* relationships with people in government offices.

⁵ Calculation of data on GON/DoF (2005) gives 1149 km², and 34% of Terai area as forest and formally under 'government management'.

⁶ An NGO coalition called TECOFAT, co-coordinated by WATCH, campaigned during the mid-1990s for 'big trees for small people' and raised CF related awareness on local rights.

Local people have started to challenge the hitherto unquestioned sphere of resource control exercised by the state and many *sarkari* forest areas in the Terai are now under some form of citizen intervention. These challenges are embedded in popular movements demanding democratic rights, reflecting national debates over the past two decades—or at least these are the claims made by NGOs seeking to make their deliberative space larger by demanding some form of decentralisation. As a result of this growing challenge from local people, techno-bureaucratic efforts to centrally manage forests by excluding them have been unsuccessful (Bhattarai 2006). This has led to the realisation by the state-donor regime that some form of participation from local people is unavoidable.

The most obvious indication of people's growing control over *sarkari* (government) forest is community forestry (CF). Community forestry was initiated in response to the Himalayan degradation crisis in the late 1970s and considered a very successful mode of governance in the hills (Gilmour and Fisher 1991; Nightingale forthcoming; Ojha et al. 2008). CF first emerged in the Terai in the mid-1990s after the enactment of the new Forest Act (1993). Over a thousand community forestry user-groups (CFUGs) have been formed in the Terai (Kanel and Kandel 2004). In an earlier study, we found that CFUGs in the Terai consider themselves more independent than those in the hills because they are patronised less by forest officials, and some had to struggle to get the forest handed over to them (Ojha et al. 2002). This resonates with another case in west-central Terai, where squatters became empowered through community forestry and mobilised themselves to protect the forest better than government management could (Pokharel 2000). These CFUGs mainly consist of new hill migrants and often include civil society activists who are able to understand and act to claim their rights. Here we interpret these findings to suggest that through the processes of deliberation—processes that were very much infused with power as village level actors sought to network with national NGOs (FECOFUN being the

prime one) to exercise power laterally. They sought to avoid the kind of hierarchical relationships that go with bribing forest department officials for access to resources, and rather (re)produced new subjectivities that allowed them to claim the right to community forestry. Importantly, because this process was so fraught, their subjectivities were transformed and a radical transformative deliberative politics played out. We've seen other outcomes in the hills when the user-groups have not had to struggle for their rights in the same way (cf. Nightingale 2005; 2006).

However, the government's 2000 Terai Forest Policy cancelled the community forestry program (**GON/MFSC 2000**) on two grounds: first, Terai forests are not only the property of local communities, as CF required, but also the property of the nation and the larger public due to the spatially dis-contiguous claims to Terai forests; and second, the forest needs to be retained for its protective function on conservation grounds. The national state (specifically the Ministry of Forests) thus fought back, mobilising both technocratic and developmentalist symbolic codes to do so. They mobilised a narrow and literal interpretation of community forestry legislation in order to curtail the spaces in which it can be implemented. In this instance, while deliberative politics seemed to have failed in retaining community forestry in the Terai, it also opened up new deliberative spaces as the government's alternative policy was rolled out.

Collaborative Forest Management (CFM), which resembles India's Joint Forest Management, was the alternative to CF provided by the 2000 Forest Policy. Kathmandu-based community forestry NGOs, particularly FECOFUN, sought to fight this new policy believing it to be a dangerous new development in the participatory development field. The techno-bureaucratic state was able to design an alternative CFM policy and pass it through the elected council of ministers, despite their protests. These NGOs themselves are the product of CF discourses and their

symbolic space is legitimated by defending the boundaries of CF against any other forms of government forestry. Advocates of community forestry have thus reject the CFM strategy of increasing governmental control over forest management, which restricts the expansion of community forestry (Shrestha 2001). Yet, here one of the reasons they failed, we believe is because of the failure to exercise power laterally. They sought to engage in deliberative politics but within a dominant/dominated perspective and were unable to open out the debate sufficiently to gain the crucial radical space needed for transformation of hegemonic codes. The reigning feudalistic doxa meant that even the popularly-elected government endorsed the policy with little prior public debate (Ojha, Timsina, and Khanal 2007), let alone the incorporation of the views and concerns of people on the margins of power and politics or the people in the south of the Terai.

The notion of equity in forest product sharing was the basis upon which techno-bureaucrats legitimated the 2000 Forest Policy. They argued that people residing far south of the forested areas also had antecedent rights to forests in the northern belt and a new institutional structure was required to deal with this spatial discontinuity. On this basis, they were able to divide people into two categories – those close to forest, generally on the northern part of the Terai along the highway established in the 1960s, and those away from the forest, 'distant users', in their terminology, who are of Terain origin and live on the southern belt right up to the Indian border. These divisions have proven to be highly significant as politics in the Terai has begun to fracture along such regional and cultural-identity lines.

CFM was soon implemented, with pilot sites in Bara, Parsa and Rautahat Districts, the most densely-forested districts in the central Terai, with financial and expert support from donors and the government. Forest officials and development agencies were able to create a few cadres loyal to themselves and to CFM at the pilot sites.

The symbolic violence was such that even the groups that initially demanded the establishment of forests as CF (where CFUGs have the right to use all forest products) were later said to prefer to CFM (which provides only 25 percent of the benefits and the management of which is driven by forest officials).⁷ This shift in alliance towards CFM has shaped the conflicts over participatory forestry in the Terai since.

Those economically and symbolically excluded from the CF system because of their distance from the forest were keen to acquire some space in forest control and management, and it was natural for some of these southern people to be part of CFM, although it involves very limited entitlements compared to community forestry (see Table 2). For us, what is particularly interesting, is that rather than trying to modify CF provisions and actively support such excluded southern people in developing measures that would accommodate them, forest officials devised an alternative program – CFM – which secured their power by: a) instituting a provision to include officials in the collaborative forest management committee (thus reclaiming power from CF, in which local users elect their own executive committee), and b) retaining 75 percent of benefits in the government treasury. Both these measures allowed discretionary power for manipulation and misappropriation (GON/MFSC 2003) and are reflective of power politics as usual: feudalistic rights claimed by the state and legitimated through technocratic justifications. Forestry governance would be fairer this way to all parties.

Table 2. Comparison of CF and CFM on Key Aspects of Governance

Aspects of Governance	Community Forestry	Collaborative Forest
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⁷ James Bampton informed me that one group in Central Terai which initially demanded a CFUG later agreed to form a CFM group.

	(CF)	Management (CFM)
Nature of deliberative legitimacy in the production of policy	Legal arrangement for CF was formulated by elected parliament, with substantive prior debate in the civil society.	Legal arrangement formulated at governmental and technological bureaucratic levels.
Degree of local autonomy in organising forest governance	CFUG is a fully autonomous organisation in forest management wherein local people have the right to elect their own executive committee.	The local committee for CFM is dominated by forest officials with some local representatives (officials have discretionary power on how these are selected).
Sharing of benefits between state and local people	100 percent production subject to sustainability	25 percent of timber yield and lops and tops of forest harvesting.
Extent of openness to civil society in programme planning and implementation	Extensive participation of civil society in the planning and implementation of the programme.	Largely implemented by MFSC and bilateral project.

Source: Ojha 2008 (based on GON/MFSC (1995) and GON/MFSC (2003)).

In CFM, then, we see very clearly the ways that deliberative politics has the potential to both undermine entrenched hierarchies and to (re)produce them. The state drew from its feudalistic and technocratic symbolic codes to create a new institution of forest governance that fit better within its own 'doxic' framework. Now they had

managed to retain and create more space for themselves within Terai forestry practices. While we do not have space to sufficiently develop it here, it is important to point out that state actors at a variety of levels were keen to establish clearer authority over community-based groups. At the Ministry level, they are concerned with ensuing a flow of revenue into their budgets from timber sales in the Terai. CFM allows them to do that by having more control over the type and level of harvesting as well as rights to the revenue generated from timber sales. At the District level, many District Forest Officers were suspicious of community-based management and wanted to retain their semi-feudalistic relationships with villagers and contractors seeking timber concessions. They benefit personally in the bribes they can receive, but also in the reinforcement of their position as *hakim* or the boss/overlord. CF NGOs such as FECOFUN attempted to retain a voice in the process by continuing to demand that CF is implemented in the Terai and trying to locally garner support for the programme. Finally, villagers and activists in the so-called indigenous communities of the southern Terai saw CFM as an opportunity for them to have a voice in forest management and to regain access to and control over forest resources that were governed by different kinds of institutional arrangements prior to large scale settlement from the Hills.

In this sense, more deliberative space was created in the Terai as various actors sought to promote their interests in the CF vs. CFM debate. Power was exercised both hierarchically and laterally having the effect of simultaneously opening up and closing down space for radical transformations in the social field. State actors at all levels mobilised the technocratic symbolic codes to argue that the DFO needed to be more closely involved in 'helping' communities manage their forests. This was only successful, however, by their engagement with the developmentalist symbolic codes that cast the programme in the language of 'participation', 'equity' and 'conservation'. In a somewhat ironic move, (some) villagers and local NGOs took up these codes

and became invested in CFM. They exercised power laterally to effectively claim more space for themselves in the forestry debate, even if the consequence of that was a diminished material access to forests (vs. CF).

Yet, we believe that this occurred in part *because* of the power exercised by FECOFUN. They have become strongly aligned with one political party in Nepal and seek to colonise the space of advocacy for community groups in Nepal. As a consequence, 'indigenous' groups in the Terai saw them as another dominating institution rather than one that represented their interests. In a highly contradictory move, they aligned themselves with the technocratic state to claim authority for themselves, separate from FECOFUN. In that sense, they were both able to move laterally within the social field and gain greater voice and authority, but also set themselves firmly under the authority of the state.

Conclusion

The national political movements of 1990 and more recently, 2006, have contributed to shattering the taken-for-granted social fields and symbolic codes that have dominated forestry politics in Nepal. People have now started to challenge the hitherto unquestioned authority of state officials the key gatekeepers in restricting deliberation in forest governance. While we do not yet have systematic data on this aspect, we can already see the results of it as the CF vs. CFM debate shows clearly. In many cases, they are choosing a regime that may in fact not serve their interests, but they see it as aligned to who they are and their people (*afnomanche*) (the feudalistic codes reinvented) and therefore want it. We are particularly interested in the contradictions of this process. On the one hand, as people agitate for their

rights, refusing to buy into the kinds of authority claimed by the state, they are transforming their subjectivities. Space is opened for more deliberative practices. Yet on the other hand, older forms of authority are (re)entrenched and the importance of speaking the languages of development and conservation is reaffirmed once again.

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