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- ✓ How can participatory community engagement transform gender relations in agriculture and water management?
- ✓ How do agrarian structures affect groundwater access for irrigation in Nepal's Tarai Madesh?
- ✓ How can local experts contribute to inclusive water governance?

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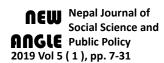
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Contents

NATURAL RESOURCES AND SOCIAL JUSTICE AGENDA IN NEPAL: FROM LOCAL EXPERIENCES AND STRUGGLES TO POLICY REFORM

Hari P. Dhungana[1] and Gyanu Maskey[2]

ABSTRACT

The demand for greater community control over natural resources have been profound in recent decades in Nepal and beyond. These demands go together with calls for social justice, which remains a coveted goal in the struggles over resources and development. However, social justice remains an elusive idea in regard to what it is and how it can be achieved in societies characterized by inequalities based on caste, ethnicity, class and gender. Accordingly, it is far from clear what specific policy and legal provisions work well in particular historical, social and political contexts.

This article surveys the theoretical debate of social justice generally, and the way it helps understand local peoples' experiences and claims around natural resources and development projects. Drawing upon the literature, it highlights the pluralist framework of social justice in terms of the ideas of redistribution, recognition and participation, and employs that framework for the analysis of three diverse cases from in Nepal: a) hydropower project development in Lamjung, b) rights of fishing communities in Kailali, and c) program on reducing emissions from deforestation and forest degradation (REDD+). The analysis shows that, while Nepal's constitution and political rhetoric acknowledges the rights and entitlements to disadvantaged groups, it has not abetted the need for local struggles for resource access and control. Broad policy announcements lack follow-through measures and tools, where more attention will be needed in order for a more socially just resource governance and development.

Keywords: social justice, hydropower, REDD+, fishing, National Park, Nepal.

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INTRODUCTION: JUSTICE AND THE NATURAL RESOURCES

The demand from grassroots and activist circles for greater community control over natural resources have been profound in recent decades in Nepal and beyond. In Nepal, several community federations and organizations have been demanding for the grassroots control over forest, water and land, and over the processes of development that impact communities in different ways. Indeed, there have been some of the most protracted conflicts over natural resources worldwide (Yasmi et al., 2012). Coming under onslaught of the imposing state or expanding business interests, communities have been fighting for their greater access, voice and control over the means and resources for their survival. Frequently there are resistance at local and national level, which pose local communities, people's associations and civil society organizations (CSOs) in opposition to government agencies at respective levels. In addition, local differences of gender, wealth and class have fostered intra-community conflicts (Agarwal, 2001; Thoms, 2008). This paper seeks to connect the core concerns of these struggles to the themes articulated in wider political discourse around the relationship of the people with the state.

A core concern regarding the above pursuit is to articulate the discursive or ideational framework within which claims about nature are articulated by the people, businesses, and the state actors in specific social, economic and political settings. For instance, claiming by local people a patch of forest, or about the benefits from a hydropower project, is essentially an attempt to asserting power via-a-vis the state and the company that is developing a project. But such claims often comprise a challenging task as the state exercises considerable control over how to apportion rights and entitlement to the people and the market actors have the wherewithal to mobilize their 'invisible hand' in exercising power. Thus, the specific resource struggles need to be situated historically and with respect to wider political claims that undercut the relationship of the citizens with the state.

The main thrust of this paper is to highlight that the notion of social justice can serve as a useful conceptual frame to examine how claims to resources are asserted and adjudicated in society. The idea can be employed simultaneously

to identify and problematize the aspects of democratization and inclusion and of policies and projects concerned with the conservation and management of natural resources and development in general. For instance, it helps identify and analyze the different threads of demands in the context of significant restrictions that people face for their access and control over their resources, even when forest sector policies espouse people's participation and control in resource management. Similarly, policies on hydropower development, or for that matter in other infrastructure development projects, require that the project developers minimize negative environmental effects and provide benefits to local community and address local concerns. However, many projects continue to encounter local resistance and protests on the site. How these policies unravel amid a political context in Nepal which had seen an intense contestation by marginalized social groups for their rights and entitlement?

This article does not intend to be too focused and detailed about a particular policy sector or about struggles on a particular natural resource or a particular social-spatial scale. Instead it seeks to articulate how the contestation about nature and society could be usefully problematized vis-à-vis current thinking on social justice generally. This article surveys the theoretical debate of social justice generally, and the way it helps understand local people's experiences and claims around natural resources and development projects. Drawing upon the literature, it highlights the pluralist framework of social justice in terms of the ideas of redistribution, recognition and participation, and employs that framework for the analysis of three diverse cases from in Nepal: a) hydropower project development in Lamjung, b) rights of fishing communities in Kailali, and c) program on reducing emissions from deforestation and forest degradation (REDD+). The cases reveal how the local populations, especially marginalized groups, have experienced the conservation and development projects, asserted their concerns and rights, and have struggled for them. Finally, it examines policy approach in Nepal regarding the extent with which they address these concerns and points to where more attention would be warranted.

DEVELOPMENT OF THINKING ON SOCIAL JUSTICE IN RECENT DECADES

The past four decades witnessed a renaissance on thinking about social justice. It was also paralleled by new social movements that called for the equal rights for women and different marginalized groups. Thus, the pursuit of justice has been both pervasive and particularistic. At one end, it is pervasive as justice claims encompass broad political demands regarding the market, economy and society. At the other end, it is particularistic as justice claims may be limited by a geographic scale, a

social group, or a particular resource, or for ending of particular modes of dispossession or exploitation. To make sense of this wide panorama, it may be useful to look at the justice debate in schematic terms.

Pervasiveness of Social Justice Agenda

The upsurge in the talk about social justice in recent decades has been frequently attributed to the publication of the first edition of John Rawls' *A Theory of Justice* in 1971 (Behr, 2005; Fleischacker, 2004; Jackson, 2005; Rawls, 1999; Roemer, 1996). Rawls was amongst the most influential political theorist since World War II who initiated a renaissance of philosophical interest in social justice (Avineri and De-Shalit, 1992; Roemer, 1996). Rawls sought to provide a superior alternative to the dominant frame of utilitarianism, which according to him, did not 'provide a satisfactory account of the basic rights and liberties of citizens as free and equal persons, a requirement of absolutely first importance for an account of democratic institutions' (1999: xii). He saw 'a public conception of justice as constituting the fundamental charter of a well-ordered human association' (ibid: 4), and asserted the primacy of justice:

> Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise, laws and institutions no matter how efficient and well-arranged must be reformed or

abolished if they are unjust. Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. [...] In a just society the liberties of equal citizenship are taken as settled; the rights secured by justice are not subject to political bargaining or to the calculus of social interests. [...] An injustice is tolerable only when it is necessary to avoid an even greater injustice. Being first virtues of human activities, truth and justice are uncompromising' (1999: 3-4).

The commitment to social justice, however, not shared by everyone. Seen in a conventional left-to-right spectrum of political thought, it can be found that idea of social justice taken cautiously and resisted by Marx and libertarians alike, but for different ideological and theoretical reasons. One finds particular conceptions of justice in the three broad strands—libertarian, centrist and Marxist—in terms of certain basic features of how each perceives social justice. For instance, libertarianism, is generally hostile to the idea of social justice, as it commits itself to the defense of private property (Clayton and Williams, 2004) and the justification of inequality, as against the egalitarian ideal associated primarily with the left (Jackson, 2003). Similarly, Marxism exhibits a lack of coherence regarding the idea. While it condemns capitalist society with a broad-angled view within which the concept of exploitation, rather than injustice, takes priority (Ritzer, 1996; Verma, 2000). Marx unsettles the way justice as taken as a virtue as he considers it and similar conceptions

of the good as ideologies founded on modes of production devised to perpetuate exploitation (Verma, 2000). Accordingly, for Marx, social justice does not represent a proper framework to organize social effort for an exploitation-free society.

As the two opposite positions in the left-right spectrum of political-economic though either disapprove or reject the idea of social justice for their own logic about how an ideal society should be like. Accordingly, social justice idea finds more comfort in centrist, or left-of-central, social-democratic political commitments where individual liberties and pre-defined role of the state in redistributing society's resources are accepted or held desirable. Within this thinking, however, controversies rage around the role of the state, about what resources are to be redistributed between how and how. Controversies also cover how we identify injustice and, on the pathways, to redress injustice.

Furthermore, recent decades have witnessed a cultural turn in political thinking, that privileges the community and its identity, rather than individuals and their choice construed in liberal framing. This turn shifts focus away from the above distributive paradigm, which is concerned with the distribution of material resources in society and rejects the Marxian economic determinism and the liberal counter-narrative based on rational individualism. Instead, it proposes to pay greater attention to culture and religion in understanding human progress

and destiny (Robinson, 2006). This strand advocates 'settled traditions and established identities', 'patriotism' and 'the defense of community's ways of life and the values that sustain it' (Guttmann, 1992, p.121), thereby shifting focus on the community and its recognition in the considerations for social justice. In addition, the critical theory paradigm offers further understanding of social justice by transcending both the class paradigm of classical Marxism and the distributive paradigm of liberalism. According to Young (1990), injustice manifests "five faces of oppression," the first being the exploitation in social processes that "bring about a transfer of energies from one group to another to produce unequal distributions and the way in which social institutions enable a few to accumulate while they constrain many more." The second comprises exclusion of individuals from useful participation in social life, rendering them marginal, leading to material deprivation and to the deprivation of the rights and freedoms. The third face is powerlessness, consisting of inhibition in the development of one's capacities, lack of decision-making power in one's working life, and exposure to disrespectful treatment because of the status one occupies. The fourth of Young's faces of oppression, cultural imperialism, relates to experience of how the dominant meanings of a society render the particular perspective of one's own group invisible at the same time as they stereotype one's group and mark it out as the Other. Young's fifth face of oppression comprises systematic violence including

harassment, intimidation and ridicule. According to Young, these are a matter of social injustice if they result from the social context surrounding them, which makes them possible and even acceptable.

Need for pluralist framework of justice: Recognition, Participation and Distribution

The discussion above reflected particular emphases and ideological commitments regarding the socially just society. They look in silos the claims about of the distribution of or access to resources, the demands for the voice and participation of different groups in decision-making, or the recognition of cultural difference in society. More recent calls however emphasize the need to have a more integrative understanding of justice that would bring in the fold of the theorization of justice of the multitude of claims into an overarching framework. For instance, Fraser (1997) proposed a framework of justice integrating both redistributive policy and a politics of recognition of difference and that urges the evaluation of social arrangements and institutions by the extent to which they enable parity of participation in society. She claims that there has been an increase in demands for the recognition of differences based on nationality, ethnicity, race, gender and sexual orientation at the expense of claims for economic redistribution and argues that justice today requires both redistribution and recognition, as neither

alone is sufficient. More broadly, Fraser's contention is read not as an attempt to conflate recognitive and redistributive claims but as 'proposing a "perspectival dualism" in which distinctive "economic-redistributive" and "cultural-recognitive" logics of justice are *analytically* distinguished and *practically* combined so as to furnish a balanced strategy for left-critical praxis' (Yar, 2001, p.288).

This line of thinking of justice in the combination of economic redistribution, participation and recognition of cultural difference has also received salience in regard to theorizing environmental justice (Schlosberg 2004, 2013). Indeed, it is largely co-constitutive with "social justice", the two concepts adopted in different spheres and contestations, yet sharing all three analytic threads. The idea of social justice is also welcomed in other sectors such as education, health or other policy areas (Gewirtz and Cribb, 2002). In all the above instances, two distinctive ways of looking into justice – the monism and pluralism-- are distinguishable (Table 1). These two approaches can be distinguished by their core concerns, the "goods" they focus on, the kind of claim, and so.

As mentioned earlier, this article employs the pluralist conception of justice when looking into Nepal's contestation over natural resources and development projects. This is to acknowledge the multiple ideational and discursive basis of claiming nature and resources by local people and other groups. Accordingly, drawing also from

Table 1: Six dimensions of pluralism in models of social justice

Dimension	Monism	Pluralism
Kind of concern	Unified conceptions of justice (e.g. distributive OR procedural etc.)	Justice as multi-dimensional (e.g. distributive and cultural and associational)
Kind of good	A single currency of relevant goods	Different, possibly incommensurable, kinds of good
Kind of claim	Single account of the relevant criteria for claims to justice (e.g. needs OR desert OR ability to benefit)	'Pluralistic' model of relevant claims (e.g. needs AND desert AND ability to benefit etc.)
Scope of models of justice	Trans-contextual model of justice (i.e. one model of justice for all goods and settings)	Context-dependent model—model depends on nature of good and setting
Scope of allocative principles	Universal model—'recipients' of justice treated the same	Differentiated models—differences between recipients relevant for justice
Scope of responsibility	Centralized model of justice—a central agent with responsibility for arbitration and 'dispensing' of justice	Diffused and centralized model—i.e. agency and responsibility shared between all, including center and periphery.

Source: Developed after Gewirtz and Cribb, 2002: 500-1.

environmental justice thinking (Schlosberg 2004, 2013), it employs three strands of justice claims: redistribution of resources, participation and cultural recognition. The intent here is to set how this pluralist framing can be usefully employed in multitude of struggles and contestation, rather than documenting the struggles per se.

METHODS AND CASES

This paper draws from theoretical review of the pluralist framework of social justice in terms of the ideas of redistribution, recognition and participation. Its empirical content is derived from the three small case studies, involving a REDD+ pilot program in Chitwan, a hydropower project in Lamjung and the case of fishing communities in Kailali district. These cases represent different districts, geographic location, caste-ethnic mix. They also reflect diversity of actors involved in claiming resources or developing

the project, their resource use, the nature of claims to nature and developmental processes, the size of population involved as well as the financial stakes involved to different actors. In each of the cases, which will be briefly discussed below, semi-structured interviews were held with members of local population, community leaders, ethnic and civic activists, and relevant government officials. A comparison is made around the key observations across the three cases.

The paragraphs below start with an overall context of social differentiation in Nepal that shapes the nature of discourse around how different social groups. It then briefly presents the three cases considered for analysis in this article.

NEPAL'S SOCIAL DIFFERENTIATION

Nepal's demographic and socio-cultural diversity is central to the political discourse in recent decades that emphasize the group difference in society as an indicator of deprivation, exploitation or injustice. The country indeed is a complex mosaic of caste, ethnic and religious groups intersected by gender and economic inequalities. It has a total of 125 caste/ethnic groups, making it as a country of minorities (Sharma, 2008), as the largest of these groups comprising 16% of the population (CBS, 2014b), while the smallest one has a population of less than a thousand. The most recent population census, held in 2011, shows that the country has a total of 63 ethnic groups, 20 Dalit castes, 38 non-Dalit castes, five "others"

Table 2: Nepal's population, and ethnic groups in the ecological regions

Ecological region	Land area[a] %	Pop. (%) (2001)[b]	No of caste/ethnic groups (2011) with geographic affiliation			
			Ethnic group	Non-Dalit-caste	Dalit caste	Other
Mountains	35	6.7	}50	}4	}5	}5
Hills	42	43.0				
Tarai	23	50.3	13	34	15	
Total	**100**	**100**	**63**	**38**	**20**	**5**

Source: Developed from [a]MFSC, 2002; [b]CBS 2014a; [c]CBS 2014b

Note: The "other" category includes Muslims (with 4.4% of population), plus four "other cultural groups", including foreigners.

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[3] Caste groups differ from ethnic groups, as the former are organized vertically in society according to Hindu percept of ritual purity, while the latter are horizontally organized in space without any doctrine for a group asserting superiority over others (Gurung, 2003). Dalits are considered amongst the lowest in the caste order.

(Table 1).[3] The political discourse in the past three decades highlights the cultural distinctness of groups, especially in order for advocate for their greater recognition, rights and entitlements.

Ethnic groups together comprise 35% of Nepal's population. They are also identified as *indigenous* peoples, *nationalities* and *adivasi* people, the latter meaning 'first or earliest settlers', though the arrival of some of these groups in Nepal was later than that of the caste groups (Sharma, 2008). Broadly, the indigenous groups are dependent on natural resources for their livelihoods. The ethnic movement has closely aligned with the international initiative on indigenous peoples and has articulated their marginalization, non-recognition and limited control over natural resources. These groups draw on strength in regard to claiming their identity, rights, and privileges through international instruments, such as the International Labor Organization's Article 169 and the United Nations Declaration on Rights of Indigenous People) that have also, to some extent, influenced national policy discourses lately.

The other category is the *Madhesi* group, comprising mainly 49 groups of Hindu non-Dalit and Dalit castes from the Tarai region, which together comprise 19.8% of Nepal's population. Since early 2000s, the *Madhesi* identity has gained ascendancy in political discourse and activism and the use of this term is employed to evoke a sense of mythical and ancient history (Hyome, 2006). The *Madhesi* identity sets itself in contrast to hills high-caste groups*,* who are seen as having deprived the *Madhesi* of the Tarai's natural resources and to have marginalized their identities.

Among the caste-groups, the *Dalits* are the ones who are at the bottom of the Hindu caste order. There are 5 Hill-based *Dalit* groups (with 8.1% population), 15 Tarai-based *Dalit* groups (4.5%), together constituting 12.6% of Nepal's population. Historically the *Dalits* have suffered from the Hindu principle of graded inequality (Ambedkar, 2005) which has evaded the "justice" dictum 'from each according to his ability; to each according to his need' in favor of 'from each according to his need; to each according to his nobility' (*op. cit.*, 84). The *Dalits* see themselves as dispossessed of property and denied access to land, office positions, dignity and state services. While they demand dignity and access to natural resources, their movement for social justice has not been as potent as that of other groups (Vishwakarma, 2002; Ahuti, 2004).

In regard to political claims-making, the above three groups are set in contrast to a group -- the high-caste groups of the Hills comprising Bahun, Chhetri, Thakuri and Sanyasi – that together comprise 31.2% of Nepal's population (CBS, 2014b). Since the mid-eighteenth century they have dominated Nepal's polity, military, and bureaucratic apparatus, and have settled in virtually all corners of the country (e.g., Lawoti, 2007). The political advocacy in the post-1990 challenged the legacy of exclusion and inequality that created uneven life

chances for various marginalized groups. These call for legal, policy and programmatic measures for righting historical wrongs for Dalit groups, enhancing the representation and inclusion of the disadvantaged groups, including Dalits, indigenous peoples, Madhesis, and women, and enhancing their participation in spheres of employment and social and political life. These calls for social justice amid increased identity consciousness were also consolidated after an influential study which demonstrated the inequality prevalent in Nepalese society (World Bank and DFID, 2006).

It is in this background that post-1990 politics experienced intense broad-scale contestation and demands from historically marginalized groups for their greater representation/participation in the polity, economy and society. These agendas came up in the course of Maoist insurgency and its settlement in 2006 and in the electoral deliberations during post 2006 period. While these agendas were articulated by some political parties, they were also recognized by others. Some aspects of these concerns were accommodated in the Constitution of Nepal, issued in 2015, yet their fuller implementation would require follow through policy, legal and financing measures. This article does not delve into this sphere of politics from political parties, but to specific experiences and struggles of local people in the context of increased expectations for local people's sense of rights and entitlement over resources. For this it draws on the case studies.

The Three Cases under study

The social diversity of Nepal, as outlined above, not only points to the social categories but parallel narratives about how the different groups experienced exploitation and marginalization in the hands of the Nepalese state and powerful social groups. The cases chosen for this article differ in social context, the nature of resource under contestation, and the actors involved in resource appropriation and the power mobilized. In all the cases, local people or indigenous populations face the government or companies in claiming or developing a resource. The latter mobilize the government license, or statist claim of eminent domain to restrict local people's traditional dependence upon the resource. The cases highlight, for instance, of the conservation logic for the restrictions on community forestry, while it mobilizes National Parks to deny indigenous, traditional livelihoods based on river fishing in Karnali.

REDD+ Program pilot sites in Chitwan

The first of the three cases for empirical insights for this paper is the REDD+ piloting site in Chitwan district's Kayarkhola watershed. Nepal has already adopted REDD+ program, consisting of Tarai Arc Landscape (TAL) area comprising Tarai plains

and Chure hills from Bara district in central Tarai to the country's western Terai border. Nepal's REDD+ Readiness Package was endorsed by the Forest Carbon Partnership Facility in 2017 and the federal Ministry of Forest and Environment (MOFE) endorse National REDD+ Strategy in 2018. In turn, REDD-IC has developed an Emissions Reduction Program Document (ERPD) for the TAL, with the intent of generating revenue through by increasing carbon stocks and sustainably managing the forests.

Two community forest user groups (CFUGs) – Chelibeti and Janapragati are among the 16 CFUGs in Kayarkhola watershed in the Tarai district of Chitwan. The first, Chelibeti CFUG, has 65 ha. of forest, which is managed by 171 households, while the second CFUG has 189 ha. of forest managed by 284 households. The pilot REDD+ project in the entire Kayarkhola watershed was launched by ICIMOD and its partners in an area of 8,002 ha. The watershed is inhabited by socially and ethnically diverse forest-dependent indigenous communities, as well as other caste groups, consisting mainly of hills indigenous groups, Dalits and high-caste Bahun-Chhetri. Among these is one of the most marginalized ethnic groups of Chepang who continue to practice shifting cultivation in some parts of the watershed.

Here local forest users, while being entitled to conserve, manage and utilize forest

produce according to their plan, face restrictions imposed under the REDD+ program and other conservation policies of the government. REDD+ program emphasizes carbon sequestration over local priorities of forest use, while Churia conservation policy restricts forest access to local communities. These policies restrict local people's control over and access to forest, and the issues have been raised by local communities especially through their representative organizations, such as the Federation of Community Forestry Users, Nepal (FECOFUN) and Nepalese Federation of Indigenous Nationalities (NEFIN).

Hydropower Project in Lamjung district

The second case chosen for this article is the Upper Marsyangdi A Hydropower Project, which begun construction from 2012 in Bhulbhule Village Development Committee (VDC)[4] of Lamjung district in Western Nepal. Sited on the Marsyangdi river, this project received the hydropower generation license from the Department of Electricity Development in April 2012 for a period of 35 years and has an installation capacity for 50 MW (DOED, 2014) and an estimated cost of NPR 10 billion. It was built as a joint venture of a Nepali and a Chinese company, operating on 'build, own,

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[4] A VDC was the lowest level political-administrative jurisdiction in Nepal prior to the adoption of new constitution in 2015. While they have now been "restructured" into rural/urban municipalities, this article retains the original category of VDC for this particular case.

operate, and transfer' (BOOT) model, with. The project started production late in 2016.

The field study was carried out in 2014 as the project was under construction. It was expected to fulfil environmental and social obligations, such as the statutory requirement of safeguarding the environment, ensuring the minimum flow of 10% of water into the river and responding to the concerns of affected communities. The people immediately affected by the project's construction comprise those in six nearby hamlets: Tanglinchok, Taranche, and Nyadi bazaar, Nandeshwora-Jyamire, and Bhulbhule Bazaar, and Kuwapani/ Kuleshwor, having a total of 176 households of mainly the Gurungs (indigenous group). As the construction started, the locals received benefits such as increased land price, employment, some contracts, support in local development. At the same time, they also experienced negative consequences from the project. A "public concern committee" comprising local representatives was formed in order to raise their concerns and negotiate with the project for addressing them.

Fishing community in Kailali district

The third case study covered in this article is that of a fishing community of Sonaha, which is an indigenous group, that is traditionally dependent upon the Karnali river at it enters the flatlands of Kailali/ Bardiya district in western Nepal. The Sonaha community lives along both sides of the river and are traditionally dependent upon fishing as the main profession and collecting miniscule of gold out of the sand. Sonaha is a marginalized community and is not officially recognized as "indigenous community" for which the community leaders have been advocating for.

A small settlement of the Sonaha community lies at Balchaur Mukta Kamaiya Shivir on the western bank of Karnali. While there are larger settlements of the Sonaha east of Karnali, this location has only seven households of the community. Here, the Sonaha's houses were built with the support from the government under its *Janata Awas Yojana* (People's Housing Scheme). At the eastern side of the Karnali river lies the Bardiya National Park, which upon its establishment in the 1970s, has been taking recourse to National Park regulations within the protected area and its immediate periphery (buffer zone). Among other things, the Sonaha community find themselves at the receiving end of the Park laws, as their two main occupations – fishing and collecting tiny quantities of gold (*sun chalne*) –are based in the Karnali river. They have been in these occupations for generations and their very identity is formed around them. However, after the establishment of the Park, their occupations have become illegal, but they continue their practices against the odds of the Park

authority, other state organs as well as some local communities organized in the form of community-based anti-poaching (CBAP) units. They are also engaged in a legal struggle for the recognition of their community as Nepal's indigenous people.

JUSTICE CONCERNS IN CONTESTATIONS OVER RESOURCES

This section presents our observations on the three cases under study in regard to the three threads of thinking on justice - recognition, participation and distributional issues. Recognition concerns with demands of local communities and indigenous peoples for the acknowledgement and recognition of their governance traditions, histories, knowledges, cultures and mores as they get squeezed by the regimes of modern state and market for control and appropriation. Participation, on the other hand, concerns with the demands of representation and participation of marginalized groups, women and others in state organizations and relevant forums and structures so that they engage in decisions that affect their lives. Finally, the third strand of distribution concerns with expectations and demands for the allocation of resources- incomes, means of production, or rights and entitlement-in a manner that benefits all in the society.

The three cases - REDD+ pilot project, hydropower development, and of fishing

community adjacent to Bardiya National Park provide insights on the relevance of the pluralist framework of justice and on understanding what particular dimension is more salient in regard to a particular claim about resources. It also helps identify the main areas of contention and conflict in regard to the cases in question.

Recognition issues

One of the three dimensions of social justice in its pluralist conception comprises "recognition." As stated above, this dimension concerns primarily with the recognition and acknowledgement of the cultures, knowledge, skills and livelihoods of indigenous people and local communities. Recognition demands, expressed from entities like NEFIN, also call for self-determination, such as for recognizing the indigenous tenure and governance forms.

Table 4 presents the recognition issues in the three cases covered in this article. Of the three cases, the Table suggests that there has been relatively greater consciousness of the recognition issues in the REDD+ pilot process, as it acknowledges certain degree of community rights and tenure. In Hydropower case, the "local" itself is seen as a problem, and the Nepalese state claims itself the sole authority over the country's rivers and licensing of hydropower projects, and any local knowledge as irrelevant to

hydropower development processes. In customary fishing, in particular, the entire community is rendered illegitimate as the State asserts its authority through the mandate of conservation, and fishing in Karnali is seen to be in contravention of the conservation logic.

On the other hand, many community leaders feel that many government regulations/guidelines are not suited to local contexts and they have been ignored to date. Indigenous

customary laws, practices, knowledge, skills and technology (NEFIN, 2016). Similarly, the views and concerns of indigenous peoples and local communities are not properly addressed and incorporated into the design, policy and programmes relating to REDD+ (Sherpa, 2013).

Accordingly, Nepal's policies on resources conservation, management or development continue to be problematic in regard to the recognition of the rights of indigenous

Table 3: Recognition issues

Areas	Issues in the three cases		
	REDD+ program	**Hydropower Development**	**Customary fishing**
1. Local knowledge versus expert outside knowledge	Indigenous peoples and local communities demand for the recognition of their knowledge, skills and livelihoods	Hydropower considered a technology-heavy sector and local knowledge is not sought in its development and execution.	Park authorities in Bardiya emphasize blanket restriction on fishing, while communities have knowledge on fishing that can be less destructive.
2. Self-determination (rules, priorities and preference)	Forestry laws and guidelines are considered to be too prescriptive and state-centric	Policy and laws not addressing the indigenous people's demands for land, territories and natural resources	Local community is rendered at the margins of decision-making from both the Park authorities, and other local groups that collaborate with the Park in enforcing the latter's rules.
3. Customary tenure	Community forestry acknowledges local rights, but prioritizes the state over local community	Customary tenure not recognized – water laws recognize the state as the sole owner of the rivers.	Customary tenure over fish is not recognized; Park authorities mobilize state sanction

groups, drawing upon Nepal's commitments to multilateral environmental agreements and human rights frameworks, hold claims over lands, territories and natural resources and demand for the recognition of their

peoples. It is especially so in respect of the country's commitments to international instruments such as the International Labor Organization Convention 169 and the United Nations Declaration on Rights of

Indigenous Peoples (UNDRIP). State-centric policies and laws and their implementation by the top-down bureaucracy are not yet sensitive enough to accommodate the expectations from indigenous peoples and local communities. As Scott (1985) points out, this apparent mismatch of local and indigenous practices and traditions with the top-down bureaucratic approach of the modern state prompt local populations actively evade the State norms. As a result, these communities often compensate by operating outside the remit of formal law and policy processes, which promotes widespread informality. Some of the observations in the three cases help explain this.

The observations in the three cases, as gathered in the field visits, not only offer examples of how local people resist and maneuver with the power of the state and market, but also provide indication of where local resistance and accommodations lead to. For instance, community forest user groups in Chitwan organize themselves into FECOFUN and organize opposition and rallies on one hand, and at the same time bribe forestry officials for signing needed papers. By doing so, they confront the state power and accommodate to it as they face the restrictive forestry regime and state power, but with spending funds. In Kailali, the Sonaha community frequently bribe the Park and police officials to get favors when

they were caught in fishing. In Lamjung, local populations staged shut-downs or other forms of resistance to get heard and to coerce the project management address their demands. Thus, the lack of recognition in conservation and development projects not only alienates the local community away from these efforts, it also promotes resistance against the project the state.

Participation Issues

Another dimension of the pluralistic framework of justice provides attention to the nature of how conservation or development projects espouse the participation of relevant actors in key aspects of their decision-making as well as their representation and voice. Table 5 shows main participation concerns revealed from the three case studies. They relate to whether there are relevant structures for local people's participation, who are the 'legitimate' local actors in claiming participation or benefits, the acknowledgement of Free, Prior and Informed Consent (FPIC)[5] as a decision-making tool, and leadership and representation of local concerns.

It is noteworthy that REDD+ processes espouse relevant structures from local to national level; some limited participation in hydropower project, but none in customary

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[5] Free, Prior and Informed Consent (FPIC) is a specific right that pertains to indigenous peoples and is recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Table 4: Participative claims

Main concern	Main issues		
	REDD+ program	Hydropower Development	Customary fishing
1. Participation in relevant structures	• Multi-stakeholder bodies a norm, but certain constituencies feel excluded in REDD WG (e.g. Dalits), • Civil society and grassroots stakeholders feel "they are listened to but not heard"	Local people develop "Public Concern Committees" that negotiate local concerns with the project	No structure envisioned for local people to have their voice in decision-making on fishing
2. Actors -Indigenous or local people	Local communities and indigenous people are often considered mutually exclusive, but they are different and heterogenous entities	No significant distinction made between the local and the indigenous.	Indigenous fishing practices seen by other "local" community as contrary to conservation. Clear distinction between the "indigenous" and "local".
3. Free, Prior and Informed Consent (FPIC)	The issue of FPIC discussed by REDD+ actors but suggest "full" FPIC will be infeasible. Thus, they adopted process of limited consultation in which some local populations were 'informed' about the project	Indigenous activists demanded FPIC, but not acknowledged by the government and project developers.	No consideration of FPIC in establishing the Park or introducing restrictive conservation regime in fishing. The "principle of eminent domain" more prominent in defining Park rules and on restricting fishing.
4. Leadership and representation	• When REDD+ funds are seen as forthcoming, women leaders are likely to be replaced by male (perverse incentive to women leadership) • Leadership positions at the community, village, district and national level	Public Concern Committee formally represents the local interests, but the leadership is likely to be coopted by the project in favor its own interests.	No basis of representing the marginalized groups into Park decision-making; no leadership acknowledged.

fishing. The question of who 'privileged' local actors should be also reveal case-specific relevance - in some contexts the local community and indigenous people are treated together, while in fishing local community works in tandem with conservation authorities to enforce restrictions on fishing, which jeopardizes

their customary practices. Similarly, REDD+ tends to acknowledge FPIC but the government officials and project developers suggest that full FPIC is not practical, as there is no clear government guideline and procedure about how FPIC should be adopted. The Nepalese Federation of Indigenous Nationalities (NEFIN) vigorously demands the implementation of an FPIC protocol, but the project developers suggested that consent of all communities was unfeasible to achieve—and this confounds with the problem of whose consent counts.[6]

In regard to leadership and representation, core concern remains, who represents whom and how. The three cases reveal the difference on the level of representation, but also indicate a risk of coopting the representatives by more powerful actors.

Similarly, when some participation platforms are provided, it is important to highlight the quality of participation – language of documents or the time span of consultation, for example. REDD+ related consultations often have been hastily organized - by holding just a brief consultation in an entire district within the TAL area - and referred to English language documents, which were not well understood by local constituencies. Many civil society organizations participating in local, regional or national consultations have complained that they were not

effectively involved in decision-making.[2] In Chitwan, for example, the consultants engaged by REDD Cell in Kathmandu held a three-hour "consultation meeting" but ended up introducing REDD+ as a concept, without holding any meaningful consultation about decision points. It was apparent that local communities participate in some of the discussions, but without sufficient understanding about the project in question. Such consultations, when they occur, are rarely comprehensive. They mostly aim at informing the local population, and seek their cooperation in project implementation.

Additionally, the effective participation of women and disadvantaged groups in local consultations is constrained by community-level governance: while community forestry policy guidelines prescribe significant women representation (50%) in user groups and related meetings, this become 'paper participation' too frequently. In hydropower, the public concern groups are virtually controlled by local power elites, who collude with the project. Local people said that key leaders in the public concern committee were provided with favors from the project – e.g. in the form of petty contracts, hiring of their equipment, or leasing their land, so that the local leaders had an incentive to collaborate with the project, than to represent local interests. Thus, power structures and relations are

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[6] Based on the discussions in a consultation meeting organized by REDD-IC and WWF Nepal, Kathmandu, 2016.

[7] Based on discussion with NEFIN leader, Chitwan.

important determinants in regard to the representation of local concerns. The same occurs with the participation of indigenous and Dalit populations at village level: there are power relations within communities that constrain the effective participation of the most disadvantaged social groups. Thus, assuring proper representation should be emphasized as a valuable process on its own.

Distribution issues

The third of the three dimensions of the pluralist conception of justice adopted in this article concerns with the distributional issues. Distributional justice in REDD+, hydropower development or fishing concerns with the community's rights, control over and access to the resource in question, e.g. forest resources and carbon stocks, as well as of any additional benefits expected from the projects, such as monetary payments, employment, tenure, or indirect benefits such as capacity development. Nepal's forest policy and legislation has lingering uncertainty about forest tenure and allocation of rights of access and control. For example, in the region of the Terai, demands by distant users is often a justification for denying local community rights (Khatri et al., 2018). Country-wide denial of community rights also occur through declaration of national parks and reserves where more restrictive property regimes prevail. Tenure uncertainty

remained after the adoption of the country's Forest Policy (MFSC, 2014a), which endorses a series of management models with divergent tenure security for the community. The persistence of these issues (forest tenure, allocation of rights of access and control issues) has already affected and will continue to confound carbon ownership and benefit sharing in REDD+.

Needless to say, in the above described context, allocating funds received for REDD+ implementation is likely to prove challenging. The government considers that 35% of the income of community forest user groups (CFUGs) should be allocated to "targeted" communities comprising women, Dalits, indigenous groups and the poor (MFSC, 2014b), but the REDD-IC has recently proposed a very different allocation scheme. This scheme specifies that the CFUGs should allocate 50% of the REDD+ funds for forest management, 10% for the poor, 10% for the forest dependent, 10% for indigenous people, 10% for women and 10% for monitoring and administration costs (REDD-IC, 2016).[8] These two schemes (Government and REDD IC allocation scheme) have different categories of 'beneficiaries' on one hand and different ratios of entitlements on the other. Local CFUG leaders in Chitwan suggest that these guidelines are too prescriptive to suit to local needs, as formulaic allocations do not necessarily match local needs and expectations. Accordingly, CFUGs silently concede that they fix the accounts

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[8] This allocation scheme also applies to all management regimes, including for CFUGs under community forestry.

Table 5: Distributional issues

Areas	REDD+ program	Hydropower Development	Customary fishing
Resource tenure	Forest Policy privileges 'participatory forest management', less commitment to and uncertainty on community rights, with risk of restrictions on forest rights – including through declaration of protected area, conservation area, etc.	Tenure licensed to the company; licensing not contested by others	Customary fishing rights terminated with the establishment of National Park
Jurisdiction/ spatial extent of claims	Forest boundary at the local level: Continuing conflict between communities on forest boundary	Geographic areas and communities (contiguous and distant) distinctly identified and their claims/ entitlements differentiated	No formal recognition of spatial coverage
Community rights	Uncertain carbon rights and carbon credit transfer rights, together with uncertainty of forest tenure	Certain community entitlements acknowledged as local development support, especially those identified in environmental impact assessment reports	Community rights not acknowledged, recognized – in fact rendered invisible.
Financial benefits or burdens	Allocation of community level funds Funds meant for women, Dalit and indigenous groups are often used for general purposes (e.g. village road), rather than to address specific needs of those targeted communities • No effective mechanism for monitoring and compliance • Divergence of allocation formula in community forestry guideline and REDD IC prescription	Direct and indirect benefits to local community – e.g. employment in the project, increased land price, greater local business, community development support (school, road etc). Some local enterprises get small contracts related to transport, construction- but accrue mainly to local elite individuals. Most of the benefits accrue to the construction phase.	Financial gains to the community according to local market for fish. Financial burdens incurred in the form of damages to the fishing boats by the Army or local Anti-Poaching units; fines to the National Park

to demonstrate compliance to forestry authorities.

Similarly, in hydropower project location, certain community entitlements are acknowledged through environmental impact assessment and the project commits to support local community with developmental funds and preferential employment. Similarly, local people also

get other indirect benefits. A unique arrangement in this case was to differentiate people living in areas close to the project site and other "affected areas" outside and to provide benefits on that basis.

However, the fishing community in Kailali and Bardiya experienced the termination of their customary fishing in the Karnali river. This was justified with the establishment of the National Park, which asserted the state's will to introduce prohibitions on resource extraction, but against the customary access to the resource. The Park authorities also mobilize some other local communities in Bardiya and Kailali in the form of anti-poaching groups who destroy the boats used by the Sonaha people when they find it. Thus, Sonaha community come under the onslaught of the state on one hand and other local groups mobilized by the state on the other. This brings to sharp conflict the customary tenure and rights against the assertive modern state.

DISCUSSION AND CONCLUSIONS

The above analysis brings to focus how different societal groups - the assertive modern state, the private sector and local community –find themselves in mutually competitive positions in regard to claiming nature and the proceeds from its conservation, management or its transformation into development projects. It is apparent that the three cases compiled in this paper - REDD+ pilot project,

hydropower project, plus community fishing - are very different in terms of recognizing the rights and entitlement of local people. Nevertheless, they shared a common question - how they help inform the way resources are claimed, counter-claimed and asserted in specific historical moment of problematizing Nepal's past.

The main concern posed in this article is on how social justice could be realized in the cases of conserving, managing or harnessing resources in the form of hydropower or REDD+ projects. This article highlighted that the justice question has to be pursued in terms of its pluralistic framing, combining the elements of redistribution, participation and recognition, and without making any of them reducible to another one. But again, the question comes about how the pursuit of justice can be made practical and enforceable (Fleischacker, 2004). It is therefore useful to look into how claims have been asserted and enacted in local to higher scale social - political mobilizations and translating them into concrete policy, legal or programmatic tools.

This paper argued that the local people's claims to resources often draw upon and gets inspired by the discursive frame articulated in post-1990 politics in Nepal. This has significantly to do with the country's social-cultural diversity and the claims about how different social groups felt marginalized or exploited through history. Seen in this light, for instance, indigenous groups' demands about land, water or other resources are legitimated on the premise that these

groups were treated unfairly under the country's political regimes in the past. These formulations offer an overarching narrative with which a group faced injustice in the hands of the state or other powerful groups, and hence deserved redress in the course of ongoing political-legal reforms generally, and in specific schemes of development in particular. This article attempted at articulating that the claims about nature or development by different groups go hand-in-hand with the claims-making in wider politics and social movements.

However, this article did not set out to become detailed and exhaustive in regard to the expanse of concerns raised above. Instead, it is expected that the line of inquiry afforded by the pluralistic conception would be informative in a range of situations that involve societal contestation for limited resources. Indeed, in all the three cases reveal the persistence of conflicts around rights, entitlement and access to resource and the way they are negotiated within the power relation existing in society. It however needs to be highlighted that achieving socially just resource regimes would be in interest of achieving social harmony and peace and accordingly, addressing the issues should remain important policy concern.

Again, devising policy measures along the idea of justice and implementing them do not appear to move along a straight line. Post-1990 political reforms and social movements have consistently highlighted the need of the policy and programmatic measures targeted to disadvantaged groups.

Indeed, the constitution of Nepal itself goes at considerable lengths toward this direction. However, the translation of the overarching intent into concrete measures shows the lack of commitment and the speed on the part of relevant government departments. What it reveals is the need for Nepal government to look into pathways in which political commitments about the rights and entitlement of marginalized groups get actually implemented. This would need a recourse to follow-through policies and consultations at operational levels including across government departments and relevant movements at different levels.

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