

A constructivist analysis linking norm diffusion to policy networks

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Abstract:

Biodiversity encompasses different constructions of 'nature', 'economy' and 'livelihood' that contain tensions between different sets of social and ethical concerns, economic or political preferences, scientific and technological systems, traditions and knowledge. Biodiversity Policy, therefore, is an important space where the competing dynamics of these processes can be observed.

Using a constructivist approach, this literature review identifies and analyses particular variables that influence policy formulation in the context of India's two main biodiversity policies: The Biodiversity Act and the National Biodiversity Strategy Action Plan. The dependant model of the overall analytical framework is to explain participatory policy formulation with regard to biodiversity and the goal achievement of the actors involved. The goal of this paper is to identify the mechanisms of influence that explain a distinct process of policy formulation. These mechanisms of influence are identified first as norm diffusion through regimes - specifically the role of policy entrepreneurs and framing exercises, cultural and institutional structures-, and second, as domestic actors operating within an advocacy coalition. The research is based on expert interviews with key researchers and policy makers. The research attempts to capture the dynamic movement and interpretation of ideas as they move between the international and domestic spheres. This paper is both theoretical and empirical, as it brings in initial results from the field. It elucidates how policy processes have been constructed in certain ways and are influenced both by the international context and ideational components of domestic policy networks.

List of abbreviations:

CBD – Convention on Biological Diversity

NGO – Nongovernmental Organization

ACF – Advocacy Coalition Framework

WTO – World Trade Organization

TRIPS- Trade-related aspects of intellectual property rights

IPR – Intellectual Property Rights

NBSAP – National Biodiversity Strategy Action Plan

TPCG – Technical and Policy Core Group

MoEF - Ministry of Environment and Forests

NBAP – National Biodiversity Action Plan

Adivasi – Scheduled Tribe

1 Introduction

Can global regimes form an effective basis for advocacy coalitions at the domestic level? I argue that India's ratification of the Convention on Biological Diversity (CBD) strengthened the leverage of rights based domestic actors and allowed for diverse actors to be included in the formulation of India's biodiversity policy. I will analyze two different coalitions, defined by their different networks and demands, and show how they influenced the formation of two different policy outcomes within the biodiversity policy space. This analysis suggests that global rights conventions can strengthen rights based claims and bring about changes on the ground.

Scholars have paid considerable attention to transnational alliances, advocacy efforts and networks that operate beyond the framework of the state¹. In policy areas where both international and domestic structures offer sites for contentious politics, Kathryn Sikkink proposes that activism can take the form of an 'insider-outsider' coalition, in which actors fix their sights on domestic issues, drawing strength from supporting international structures. Keck and Sikkink have traced ways in which global ideas can frame activist struggles and have explored in detail the boomerang strategy by which domestic civil society look outside their own state in order to build normative transnational alliances². More recently, Sikkink has posited that democratization might mean, if not an end to the boomerang strategy, then a logical re-evaluation of the domestic sphere of contentious politics by activists³. This has led to the emergence of what she refers to as 'insider outsider coalitions', in which domestic activists 'privilege domestic political change but retains international activism as a complementary and compensatory option'. For an 'insider-outsider coalition' to occur, both the international opportunity structure – that is, the degree of openness of international institutions to the participation of transnational NGOs, networks and coalitions – and the domestic opportunity structure – or 'how open or closed domestic political institutions are to domestic social movement or NGO influence' – must be relatively amenable to advocacy⁴.

¹ Bandy, Joe and Smith, Jackie (eds.), *Coalitions Across Borders: Transnational Protest and the Neoliberal Order*. Conca, Ken (2006) *Governing Water: Contentious Transnational Politics and Global Institution Building*.

² Keck and Sikkink, *Activists Beyond Borders*.

³ Sikkink, 'Patterns of Dynamic Multilevel Governance', p. 165.

⁴ *Ibid.*, pp. 156–7.

This case study makes an important contribution to the influence of global norms on domestic politics because it refers to a debate on an issue, which was not salient in Indian politics before the ratification of the Convention of Biological Diversity (CBD). Despite the relevance of issues surrounding biodiversity, the specific agenda of sustainable use and equitable sharing of the benefits was not given much consideration in policy. Efforts to conserve India's biodiversity have evolved over the decades, but under the concept of 'conservation,' not biodiversity preservation per se. Although 5% of the country's surface area is legally protected, the entire system has attracted a considerable amount of criticism and has often been rated as 'flawed' because of the exclusion of people from planning and conservation strategies.

Biodiversity policy formulation in India has taken a form that is distinct from that found in many other countries. During the policy making process, the concepts of sustainable use and equitable sharing of benefits became ingrained in the understanding of what biodiversity policy is. In addition, the Biodiversity Bill and the National Biodiversity Strategy Action Plan (NBSAP) followed an unusual policy formulation process with a definite emphasis on more decentralized processes, which conform to the mandates of the Convention on Biological Diversity. India had never framed any consistent Biodiversity Policy prior to this. Instead the question fell under a variety of different jurisdictions: forest law, trade agreements, patent policies, wildlife acts and agricultural policy. The thrust to push for an integrative biodiversity plan came from the evolution of the debate in the international arena. Much like the United Nations Conference on the Human Environment of 1972, that forced India to put environment on the policy agenda, the CBD initiated the same process of reevaluation with biodiversity. In addition, three additional factors brought biodiversity to the forefront in the 1980's; these were a growing urgency about the unprecedented loss of biodiversity, greater insight into the different values of biodiversity and the rapid development in the field of biotechnology⁵.

One argument is that the CBD was crucial in fostering a domestic advocacy coalition. The CBD, combined with concerned domestic organizations such as Kalpavriksh and Gene Campaign, highlighted people's rights politics in India and reshaped the terrain

⁵ Rajan (1997) *Global Environmental Politics : India and the North-South Politics of Global Environmental Issues*.

of domestic advocacy. Firstly, the CBD promoted a rights-based discourse and delegitimized alternative approaches to issues surrounding biodiversity. It provided a discursive opening for a small group of rights-oriented actors, shifting the axis of domestic rhetoric from conservation towards a people centered rights-oriented approach. Secondly, it encouraged the formation of a rights-based civil society coalition that once consolidated, turned the CBD from a mere declaration of principles into the inspiration for a rights-oriented politics aimed at introducing concrete legislative and institutional reforms.

Since the mere ratification of conventions does not lead to change, much of this influence is normative. A significant part of the literature on global norms identifies local salience as a crucial variable; global norms work when domestic and public institutions are open to their influence⁶. Analysis shows that the norms emanating from the CBD were broad enough to be absorbed by the pockets of advocacy within the domestic space that kept the debates on rights alive. For the first time a right's based discourse combined with public deliberation gained currency in the policy arena. Global rights norms and treaties can provide and create a more conducive environment for bringing actors together for advocacy and policy making in areas that were not previously considered priorities by the state. This reflects the rights 'turn' in international relations and a growing awareness that ideas and principles combined with material interests play a role in the dynamics of global politics⁷. The growing viewpoint that ideas are significant in their own right also rests on an increasing awareness of the importance of principled civil society organizations, motivated not only by materialism but by moral concerns in political life. These theoretical and empirical developments have fed into a research agenda, shaped by social constructivism, concerned with the capacity of norms to transform political life.

Biodiversity encompasses different constructions of 'nature', 'economy' and 'livelihood.' In analyzing biodiversity policymaking in India, one has to trace the conflict lines between these different agenda's by deconstructing them and studying

⁶ Cortell and Davis: Understanding the Domestic Impact of International norms

⁷ Stefano Guzzini, 'A Reconstruction of Constructivism in International Relations', *European Journal of International Relations*, vol. 6, no. 2 (2000), pp. 142–82; Emanuel Adler, 'Constructivism and International Relations', in Walter Carlsnaes, Beth Simmons and Thomas Risse (eds.), *Handbook of International Relations* (London, 2002), pp. 95–118; Cortell and Davis, 'Understanding the Domestic Impact of International Norms'; Jeffrey T. Checkel, 'Why Comply? Social Learning and European Identity Change', *International Organisation*, vol. 55, no. 3 (2001), pp. 553–88.

the role of network clusters around particular discourse sets. The Advocacy Coalition Framework (ACF) is a particularly useful approach for delineating these clusters. This paper is a discussion on the goal achievement of the different advocacy coalitions and the role of international debates and conventions in grounding these processes.

This paper is organized in four sections. The first proposes the theoretical models of norm diffusion and how this integrates into the advocacy coalition framework. The second outlines briefly the historical context. The third reflects on the reform process and the analysis of actor's strategies in securing their goal. The fourth is a brief conclusion.

2 Theoretical model – Relating Norm Diffusion to the ACF

2.1 Role of Regimes

Public policies have been discussed in several ways. Traditional approaches defined public policies as useful for 'problem solving' (Rose, 1991); however, according to Muller and Surel, public policies are not used simply to 'solve' problems. "The latter are 'solved' by social actors themselves through the implementation of their strategies, the management of their conflicts and, above all, through the learning processes that mark every policy process." (Muller and Surel, 1998, p.31). Constructivists as their name suggests argue that public policy formation emerges out of a process of construction: construction 'of reality' (Berger and Luckmann, 1986, Muller and Surel, 2004), 'intelligible frameworks' (March and Olsen), 'mental maps' (North, 1990), 'paradigms' (Hall, 1993), belief systems (Sabatier), and so on, and so forth. These ideas suggest the policy process is framed in certain ways, within a particular socio-economic context and by the actors involved. Their views of the world are determined by their treatment within a society and by extension particular structures of government. Subjectivity is therefore built into the core of the process, as it frames and limits the ways of viewing a problem by the actors involved.

This subjectivity is also related to the regimes. Regimes create systems, built around core ideas that are channeled by transnational actors into a domestic policy process,

which may or may not correlate to the political values, culture and interests of the state and policy actors involved. Puchala and Hopkins (Krasner, 1983: 62) note that realities of regimes exist in 'the subjectivity of individuals who hold, communicate, reinforce or change norms and authoritative expectations related to the set of activities and conduct in question.'

Although Rationalists have dominated the study of international regimes; constructivists have furthered this understanding. They do not simply understand regimes as a '*passive restraining framework for human activity*' (Vogler 2003, 37) but rather as norms and ideas that are dependent on changing incentive structures. Constructivists' focus on regime formation as dynamic—that are both shaped by and shape (or reshape) identities and interests, which are understood as endogenous and socially constructed⁸. John Ruggie has pointed out the contradictions between the intersubjective ontology – where the causal variable is reflected in how actors see the world, reflected in the classic definition of regimes and the rationalist epistemology of neoliberal institutionalism (Ruggie 1998, 85; Chafetz: 1999). The limitations of using a purely regime based approach, however, is that regime theorists may often focus on cooperation between states and other actors competing for power and influence in a situation of anarchy (Hurrell, 1993:50). Thus there is a natural tendency to study the intricacies of the institutions or regime itself rather than the impacts and interdependencies with other actors and structures in the global system. The rationalist argument is a good starting point to see how the state as an actor responds to certain regime stipulations. The best hope for regime builders is that nonbinding, or otherwise weak arguments can set in motion a gradual process of deepening cooperation and strengthening of rules.

'Regimes are a set of implicit or explicit principles, norms, rules and decision making procedures around which actors expectations converge around a given issue area'. (Krasner: 1983:275). The standard prescription for this kind of convergence is for governments to negotiate multilateral agreements on specific problems like global warming, trafficking in hazardous waste or destruction of forests. Typically, these negotiations have the goal of creating a formal agreement that is then to be ratified by

⁸ Kratochwil and Ruggie 1986; Wendt 1999

individual states, such as the Montreal Protocol, Framework Convention on Climate Change or the Convention on Biological Diversity. While some of the "rules" that these agreements incorporate are in the form of general principles, others are more specific.

The Convention on Biological Diversity is often set up as an example of a regime that faltered, a victim of its own *'vagueness on the conservation obligations of states and the choice of its framers to dodge the tensions between genetic material as an economic resource and biodiversity as community based common property.'* (Conca: 2006:12). Regime theory remains an important framework to embed discussions spurred by the CBD, even at the level of independent nation states. This is because it grounds the argument in the ideas and challenges of global interconnectedness. India's participation in the Biodiversity convention was linked to trade and intellectual property trends being pushed by the Northern states. The other contentious issue linked to these negotiations was the relationship between the CBD and the Trade Related Aspects of Intellectual Property Rights (TRIPS). This relationship is multifaceted and complex and India, along with other likeminded countries in the WTO had been pushing for the rights of the holders of traditional knowledge and the sharing of benefits arising out of innovation based on their knowledge to be recognized by the TRIPS agreement. This according to them, would involve harmonization of the CBD and TRIPS provisions. This demand for harmonization and even primacy of the CBD regime over the TRIPS agreement was pushed by national actors who were arguing for strong farmer rights and stringent protection for traditional knowledge.

2.2 *Diffusion of Norms*

Norms have been generally defined as *'a standard of appropriate behavior for actors with a given identity'*⁹ Diffusion describes a trend of successive or sequential adoption of a practice, policy or program. While many scholars have placed much emphasis on processes of bargaining within international regimes and power and coercion of

⁹ See Katzenstein 1996b, 5; Finnemore 1996a, 22

individual states or international organizations to explain how international agendas reach the domestic level, there are others (Lafferty et al: 2004) who argue that diffusion also constitutes a distinct mode of global governance, which is useful to explore. One relatively neglected aspect of diffusion remains international norm diffusion, important especially as the global spread of norms is central to the constructivist point of view whose premise is *'that change in world politics occurs through shifts in understanding of what is normatively appropriate behavior for states and state actors to engage in, and correspondingly what kinds of behaviors are no longer deemed normatively legitimate and sustainable.* (Subotic: 2007:3)

Interest based motives have been emphasized by neoliberals in explaining why states adopt certain norms and explain it by material benefits. In contrast constructivists are more ambivalent about strict material benefits, pointing out that states often exist in normative environments that serve as blueprints for state behavior. This could include a whole gamut of issues including human rights, national security, environment policy, nationalism, decolonization etc. The key difference between rationalists and constructivists are that `non functional` norms are considered to have profound influence in constructing interests through political dynamics. Instead of considering norms as a *'reflection of fixed preference of states'*, they are seen as influencing the construction of those interests and choices. (Bae: 8:2007). Martha Finnemore (1996) contends that states are socialized to want certain things by international society by internationally held norms. This normative context influences the behavior of decision makers as well as the mass public who may choose to constrain state decision makers.

Different waves of scholarship have focused on distinct areas of the domestic\international linkages. The first wave had little analysis on the contention between norms and counter norms, between domestic/local and international actors. The "second wave" norms scholarship tried to analyze domestic politics more directly, using domestic structure to emphasize political conflict, institutions and culture as "filters" through which international norms are transferred. This is also closely linked to framing exercises. International norms are more likely to be used if its meanings are framed in a way that they can mean different things to diverse actors. It has been pointed out that norms at an international level should not be studied as monolith and can exist in different variations, nuances and even conflicting principles

that are not consistently adopted by the state in question. States have a possibility to pick and choose the norms most appropriate to them, those that may be consistent with local values, practices and beliefs. (Subotic: 2009)

There are important processes of exchange between domestic and international norms. Additionally the filter of domestic structures and divergent norms may produce important interpretations and adaptations of international norms. These interpretations often need important catalysts at the domestic level to champion the process that advocate a minority position and use international norms to strengthen their positions at the domestic level. According to Finnemore and Sikkink (1998) there is often a 'two-level norm game' occurring linking international and domestic demands.

Broader literature review reveals two different mechanisms at work in the process of norm diffusion: the "bottom-up" and the "top-down" process. The former has two paths: the first argues that domestic social actors, even in isolation from broader transnational ties, exploit international norms to generate pressure on state decision makers. The second illustrates how non-state actors come together with policy networks, both the national and transnational level, united in their support for norms; they then mobilize and coerce decision makers to change state policy.

The issue area of biodiversity was an emergent norm brought into the limelight by the CBD. Non-state actors had an important role in mobilizing to link the global to the local: in translating the norms into a language and concept that could be easily grasped by all. According to one legal activist, the Hindi equivalent of the concept of biodiversity is 'Jaividitha'¹⁰, that has no colloquial equivalent and translating the concept at different local levels proves difficult. The second challenge was to match these norms to preexisting cultural and political domestic structures, which would include legal structures and mechanisms of decentralization. One of the typical demands that activists make is for the provisions of the CBD to be incorporated into domestic law, since this is seen as an important step towards making rights transparent and equitable. In addition, the planning process outlined by the CBD stressed that stakeholder participation is critically important and the coalition

¹⁰ Interview with Madhu Sarin, Human Rights Activist and member of the NBSAP technical and core policy group.

involved in formulating the NBSAP pushed for precisely this model of participatory decentralization.

The formulation of the National Biodiversity Strategy Action Plan (NBSAP), 1999 and the Biodiversity Bill, 1994 were praised for drawing consultations from various sectors, involving a high level of informed debate and including unprecedented scales of participation in a political space that had traditionally subscribed to narrow notions of governance. This level of participation guides the focus of policy analysis to the meanings (values, beliefs) that policies embody for their multiple stakeholders and the ways in which those meanings are communicated in a particular cultural context. In order to study the diffusion of norms and understand what forms they took in a national context, we must focus on the main ideas that these norms transmitted at the international level:

Table I - Convention on Biological Diversity (CBD)

Core Norms	<ul style="list-style-type: none"> - Conservation, sustainable use - participatory planning process - Access Benefit Sharing
Secondary Norms	<ul style="list-style-type: none"> - Access to genetic resources - Recognition of traditional knowledge and indigenous peoples rights - Capacity building
Core rules to be implemented by governments	<ul style="list-style-type: none"> - Domestic policy and legal measures to ensure equitable sharing and technology transfer. - National Strategies, plans for programs for conservation of biological diversity and its integration across sectors - Access to genetic material is subject to national legislation. Contracting parties shall create conditions for facilitated access to resources for which they are the country of origin.
Regulatory Bodies	<ul style="list-style-type: none"> - GEF - UNDP

(Adapted from Anderson: 2008:144)

2.3 *Presence of an Advocacy Coalition*

Embedded within an ideational framework, the advocacy coalition framework differs from more realist-oriented approaches in that it focuses on belief systems and not common interests.

Policy core beliefs have been identified as the binding force between coalitions (Jenkins-Smith, Sabatier, 1994, 195). These include basic ontological and normative beliefs, like the perceived nature of human beings or the relative valuation on

individual freedom or social equality. They also include fundamental value priorities such as the relative importance of economic development versus environmental protection, or the appropriate division of authority between markets and governments (ibid, 180,181). The secondary scope of a coalition's belief system covers a more narrow scope, concerning the relative importance of different causal factors, policy preferences, institutional design and valuations of the performances of different policy actors. The policy core beliefs are the "glue" that holds coalitions together and reflects basic normative commitments and causal perceptions across an entire domain or policy subsystem (Sobeck, 2003:354). This glue that is core belief is well articulated by the various actors who contributed to the development of biodiversity policy in India. The core ideas, gleaned through interviews were that; development in India should be people centered in that people should control India's natural resources. This belief based on the shared experiences of centuries of colonialism and heavy-handed bureaucracy. Many interviewed viewed their role in the coalition as a service to their country, for the greater good. There was also a general belief that new biotechnologies would rapidly spur demand for access to genetic resources and those communities who owned this knowledge and resource would be exploited. The main idea was to secure democratic control and widespread knowledge about the value of these resources. This also lead to a belief in participation while formulating laws or policies that affected various stakeholders and the central belief that their ideas and voices had to be reflected in any policy that hoped to be relevant.

Value systems and the construction of meaning can be studied in the policy spaces that open up the domestic policy arena for dissent, discussion and assimilation. The starting point on an analysis like this is that actors within a policy subsystem join to form coalitions, interpreting facts according to their interpretive scheme and then undertake coordinated action. This also highlights the need for professional forums to develop strategies and iron out ideological and value-based positions. Policy outcomes, that are often state led, however, remain positivist in orientation, encompassing 'contextual incentives, formal and informal rules, bargaining and rational action' (Mathur: 2007:613). These coalitions can only advocate certain positions and influence parts of a policy.

The core policy that the CBD builds on is that environmental concerns and equity should take precedence over economic concerns. This has been a definite source of tension between the CBD and the World Trade Organization regimes (Rosendal, 2000). In an Indian context, this is also a conflict between the state and different interest groups. The dominant discourse (of the state) has to be interrogated against the different storylines and discourses propagated by the different actors and confront the inherent tensions between them.

Table II – Delineating characteristics of the coalitions

	Conservationist	Eco-populist	Developmentalist
Typical Proponents	Conservation NGOs Biologists, ecologists	Advocacy NGOs , Cultural Anthropologists	Development Organizations (state, NGOs, donors) .Economists
Central Storylines	A minimum area of undisturbed nature needs to be preserved to avoid species loss and to maintain the ecological balance	Local/indigenous communities are the only true stewards of the environment. They have proven that they can preserve forest resources better than the state.	Population increase and poverty are the main causes of deforestation and biodiversity loss; Poverty reduction is essential for saving the environment.
Priorities / Mission	Nature conservation, protection of endangered species.	Empowerment of local people and communities.	Poverty alleviation, state lead development.
Self Positioning	Defendants of nature and endangered species	Defendants of indigenous rights	Defending State role and vision as protectors of the poor.
Positioning of opponents (other representation)	Local people seen as eroding natural resources Eco-populist NGOs seen as neglecting ecological necessities State and private sector seen as taking advantage local communities	Conservationists seen as neglecting human rights. State/Private sector seen as taking advantage of local communities.	Eco-populists seen as romanticizing and instrumentalising local people. Conservationists seen as neglecting the need for poverty alleviation and hindering development for the larger society.
Relation to science	Results of natural sciences (conservation biology, ecology, hydrology, etc.) as unquestionable basis for the argumentation	Postmodern criticism of science; - Reliance on Qualitative social science studies and on natural science studies challenging “orthodoxies” - High valuation of local knowledge	Reliance on technical disciplines (agronomy, engineering, etc.) and on socio-economic studies

(Adapted from Wittmer/Birner: 2005)

In order to outline the coalitions above I have used the demarcated terms 'conservationist' 'eco-populist' and 'developmentalist'. This is mainly to emphasize a distinct value culture. The conservationists and eco-populists perceive the developmentalists with suspicion, their main tools are lobbying and dissemination of knowledge to the public. The developmentalists, gaining strength from the state perceives the eco-populist as 'scientifically unsound', unable to reconcile the different demands on policy making and electoral priorities and emphasize pro-economic development.

Interviews with people responsible for drafting both the Biodiversity Act and the National Biodiversity Strategy Action Plan (NBSAP) reveal certain value systems that cement these coalitions together. The fundamentals of this value system within the network drafting the NBSAP, is best revealed by Ravi Chellam, (interview) a member of the Wildlife Conservation Society and of the Technical and Policy Core Group (TPCG) who identifies an underlying unity to the network. Not 'diversity for diversities sake'. There were bound by certain values like pro participatory planning processes, primacy to local communities, traditional knowledge and a 'healthy disrespect' for big corporations or big governance. It is important to note that though conservationists are traditionally a very strong group in India's environmental policy landscape, they were not co-opted during the processes of biodiversity policy formulation and in fact remained wary of the ideology and movement underpinning the process.

The Biodiversity Act, initiated in 1994 after India became a signatory to the Convention on Biological Diversity had a drafting core group consisting of representatives from different ministries of the Government, and the non-governmental sector, including leading environmental NGOs, researchers and activists. It initiated a process of discussion and debate on the various possibilities for implementing the provisions of the CBD, and examined whether a separate law was necessary for this purpose, or whether existing laws could take care of the issues. 'Experts' - mostly scientists and state actors, led the drafting. While keeping in mind the different outcomes of the two policies, the Biodiversity Bill went on to becoming

an act in 2002 whereas the NBSAP remained in stalemate till 1999, it is particularly important to note the characteristics of the two coalitions and frames are more acceptable by the state because these are the ones given support by policy makers.

The ACF also takes into account actors like researchers and journalists, who are motivated to translate their beliefs into actual policy and play a big role in ‘framing’ debates, influencing opinions and making a process more participatory (Sabatier and Wieble: 2006:5). The origin of both the NBSAP and the Biodiversity Act, with encouragement from the government was a bottom up process with the initiative to draft the proposal taken by a small group of NGOs and activists in the case of NBSAP and scientists in the case of the Biodiversity Act. It did not follow the more common procedure of the state drafting a legislation or policy and then including relevant actors to discuss and streamline the document.

The ACF is based on basic assumptions concerning policy-oriented learning. The whole process of participatory deliberation towards adopting new policy is a process in learning towards consensus building. (Swiderska et al.2001). New elements introduced by various members of the coalition, including information about choice of field partners resulted in an input or revisions of the text, which is in line with ‘lessons’ learned. Information that could challenge basic beliefs like consultations with business or discussions with leading conservationists was never built into the formal process. Many also have problems with a people-centered approach, arguing that biodiversity was also contained within pristine spaces without human interference or ideas like participatory policy, which could lead to dilution of policies. This was firmly resisted in the NBSAP with the *coalition resisting information that could lead to conflicting inferences*.

If we understand governmental arrangements as discursive arenas (Nullmeier: 2006:9) which draw on concepts of ‘collective action frames’, we see that the framing of knowledge in a specific way, reveals not only ‘meanings’ or ‘values’ but also allows us to interrogate the relationship between power, knowledge and policy formulation. This allows us to study patterns in which actors collectively champion particular values or ideas that are re-enforced or sidelined by domestic and political discourses in the larger context. In analyzing the state being receptive to ‘policy innovation’, one

has to also document the frames in which a state is most receptive to ideas. The challenge of this policy was the tensions between ‘scientific framing’ and ‘large scale participation’, which were translated from international norms and adapted to domestic and local policy. In these particular policies, the advocacy coalition played a crucial role in resurrecting marginalized discourse and bringing it to a policy arena and the conflict lay in how much space policy was willing to give to these discourses.

In this research project, I am interested in seeing how certain norms, strengthened by particular regimes are contested within a domestic space. The argument of constructivism running through the paper does not discount for the fact that regimes in themselves are created out of participants’ interpretations, understandings or convictions about legitimate or moral behavior. The scope of this study however, is mainly state centric. In the context of international agreements, where each state is responsible for formulation and importance of the proposed ideas, the policy culture and environment within particular states is especially important.

The research question is whether certain norms are dispersed or diffused through particular regimes and the goal achievement of domestic actors as networks who adapt it to a specific context. The dependant model of the overall analytical framework is to explain participatory policy formulation with regard to biodiversity and the goal achievement of the actors involved.

3 Historical Context

3.1 The Emergence of Biodiversity as a policy arena

Biodiversity conservation in India is reflected in the range of conservation activities, undertaken both nationally and internationally. Cooperative efforts towards conservation lead to visible projects like The Man and Biosphere Project lead by UNESCO (1972), setting up networks of international reserves and conventions like the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Prior to any official policy regulating biodiversity, The Biodiversity Conservation Prioritisation Project (BCPP, 1999) was India's largest and most comprehensive exercise to prioritize sites, species and strategies for conservation.

(Acharya: 2002). This project supported the development and application of a state-of-the-art methodology for setting biodiversity conservation priorities in a pilot national priority-setting exercise in India. It worked with an informal consortium of Indian NGOs and research institutions under the direction of a steering group, led by WWF-India.

One of the main reasons why Biodiversity as an integrative issue leapt to the forefront in the 1980's was because of the rapid growth of Biotechnology which India wanted to take advantage. Added to this, India's enthusiasm for the CBD was in reaction to the intellectual property trends being pushed by the northern states, which would be detrimental to India's biotechnology aspirations. The conventions negotiations provided India with the opportunity to argue for each southern country's right to choose appropriate intellectual property legislation and to argue against the erection of new barriers to the flow of technology from the north to the south. Before the negotiations for the Biodiversity Convention were to begin, India discussed its views with other select developing countries in a conference in New Delhi in 1990. Through mutual negotiation, a list of principles was produced that the countries agreed would have to be incorporated into the convention. It argued that while developing countries have the bulk of biodiversity and the responsibility to maintain it, developed countries through technological capabilities enjoyed the economic benefits of the same diversity. While formal innovations in the developed world were adequately rewarded, informal ones were not even recognized. (Rajan: 1995:201)

While the north-south discourse on Biodiversity raged on, the Indian state also domestically came under criticism for perpetuating a state-dominated approach to environmental policy making, a heavy handed model that it had inherited from its colonial occupiers. Several people's movements and struggles such as the Chipko movement of 1970 and the Silent Valley Project, of 1978-80 put pressure on the government to grant greater autonomy and self-government at the community level. From the 1980s on, decentralization became the norm. This resulted in a reassessment of many of the government's policies with more decentralized regulatory structures at state and village local level. In spite of its legacy in conservation, biodiversity as a specific policy area only made an appearance in the mid 1980s. Even then it was kept far from the national agenda until India became a signatory to the Convention on

Biological Diversity. Article 6 of the Convention on Biological Diversity (CBD, 1993) requires the preparation of NBSAPs. Treaties like the CBD that have complex scientific, economic and policy components often transcend divisions between conventional sectors. The thrust of these conventions has nudged India into passing several forms of legislation, including the Biodiversity Law of 2002. This law places national sovereignty over biological resources. (Chavan et al: 2003:115) and addresses the basic concerns of access to, and collection and utilization of biological resources and knowledge by foreigners, and the equitable sharing of benefits arising out of such access. The legislation provides for a National Authority, which will grant approvals for access, subject to conditions, which ensure equitable sharing of benefits. (WTO: 2000)

Thus we find two distinct processes that allowed the drafting of the NBSAP and Biodiversity Act as a process that was both “unique and trend-setting” (Anuradha et al: 2001:20,22). The heavy state dominated and controlled approach to environmental policy making eventually lead to slow dissent at both a community and policy level. This in turn, put pressure on the government to open the system to greater public input. This resulted in a Biodiversity Act that was forged by the government, but strongly influenced by the interests and concerns of specific environmental groups and non-state actors. The ground was ripe to support such a large-scale participative movement after two decades of gradual decentralization. In addition, India began to position itself vis-à-vis the international community, using the convention as a forum to push for traditional knowledge and informal innovation and showcasing it in the process of a highly visible, highly participative formulation of the National Biodiversity Strategy Action Plan.

4 The Road to Reform

4.1 Linking the Global to the Local

Ratification of the CBD in 1993 did not mean that the Indian state was ready to commit immediately to the introduction of rights-based internal reform. It opened the

door to a new opportunity structure and became an important milestone in rights based advocacy. The incorporation of the CBD changed the domestic environment in three ways:

1. Framing: The CBD provided a new and 'official' way of framing Biodiversity issues that was reiterated for the state through contact with non state actors who had been advocating for these rights at different levels. The ratification of the CBD forced state and non-state actors to adapt their rhetoric to the language of stakeholder rights and participation.

2. Leveraging Opposition to the TRIPS: The CBD strengthened the assertions of pro reform NGOs who until then were focused on the negative impacts of patents on genetic resources/traditional knowledge. NGO's took a position that Intellectual Property Rights are not necessarily detrimental as long as India protects its genetic resources. This allowed NGOs to also push for more participatory, stakeholder involvement in formation of laws and policies that could aim in extending rights to grassroots innovation and traditional knowledge rather than simply protecting them for patents and bio piracy.

3. Strengthening the moral authority of rights-based advocacy organizations. The re-framing of the language along the lines of a rights and participation discourse discredited competing discourses within civil society and increased the legitimacy and authority of advocacy organizations.

In relation to the first point, the CBD legitimized a new rhetoric of indigenous rights in the area of biodiversity. India committed to three critical goals when it ratified the CBD in 1994: conservation of its biological diversity, sustainable use of its biological resources, and equity in sharing the benefits of such use. In this sense, it helped to re-define the discursive terrain on which state and civic actors concerned with issues relating to communities and their rights operated. As pointed out above, the CBD allowed for alternative ways of framing to enter the policy arena, one in which participation, voice and control were relevant. In particular, it questioned the culture of 'fences and fines' where human use and impact on natural resources are severely controlled and legitimized of access and control of communities over their own

resources. The NBSAP went a step further in opening up the policy culture to alternative voices, definitions and advocacy measures. In the arena of civil society, and more specifically within the subsector of organizations that specialized in indigenous peoples rights, this discursive shift granted moral authority to advocacy organizations that had historically promoted a rights-based approach but had, until that point, operated outside the sphere of the state.

India was one of the most vociferous opponents of revising its patent laws according to the TRIPs Agreement of the WTO, and refused to comply with its provisions. NGOs began a campaign of some scale in their protest against TRIPS. Their most effective and forceful argument was that the IPR system, outlined in TRIPs, recognizes only innovations of corporations and does not take into account informal innovations of farmers and communities, especially in developing countries. These NGOs not only pointed out the negative impact of patents on industry, health and prices but also focused on bio-piracy. The two most prominent NGOs within this campaign were the Research Foundation for Science, Technology and Natural Resource Policy, founded by Dr. Vandana Shiva and Gene Campaign, established by Dr. Suman Sahai in 1992. They were the same NGOs that spearheaded the Biodiversity Bill in 1994 and remained active on its path to becoming an act in 2002.

The Earth Summit in Rio de Janeiro in 1992 also provided momentum to their protest as the CBD represented the overt shift of developing nations from the common heritage to sovereign control over genetic resources. There was a rethinking of a strategic path to securing gains from intellectual property that would entail extending it to traditional knowledge and grassroots innovation rather than protect it against individual patents. They applied the debates of the CBD arguing that people and communities should have control over their knowledge and derive IPR benefits through it. It would necessarily follow that they then become active stakeholders in the laws or policies arising from biodiversity related issues.

4.2 Analyzing success and failure of Advocacy Coalitions

Following the example of other countries, funded by the GEF and UNDP India decided to invite an NGO, Kalpavriksh, who had been working in environment and

social issues since 1979 to form a 15 member technical and policy core group. This was to generate independent information about the state of scope of Biodiversity in the country and evaluate the state's progress in designing new policies that would be in line with the CBD. The influence of these types of networks depends ultimately on the strength of the non-state actors, the strategies they choose to adopt, the ownership they manage to build, the institutional matrix in which they operate and political strategizing (Grugel et al: 2010). In India this network brought together a diverse range of people who had common beliefs in participatory values but very little experience with a project of this scale and a lack of political strategy. On the other hand, the coalition that advocated for the Biodiversity Act took the view that legal reform and setting up of a mechanism to give communities economic gains and control over their own resources were more important than the right to direct participation.

The bureaucracy and some officials within the Ministry of Environment and Forests (MoEF) in general were wary of accepting unequivocal participation and rights based claims. As a group, they were far less critical of the policies that focused primarily on conservation. India's ratification of the CBD provided a difficulty in reconciling top down planning processes with participatory policy deliberation. Though parts of the ministry were involved with the large scale formulation process of the NBSAP and the deliberative process of the Biodiversity Act, in the end, they could not allow the opening up of the system to the degree that would align with international standards. Initially in the case of the NBSAP, there was an ownership from the ministry with its senior bureaucrats inviting scrutiny into their planning processes. From a promising beginning, showcasing it in international forums, the ministry silently withdrew support. With a change of Secretary in the ministry, the process was completely stalled until in 2005, Kalpavriksh released the draft report that had been prepared in the 4 year process as the 'people's plan'. It took another two years for the ministry to release its draft plan authored by two officials from within it, which finally came into force as the official National Biodiversity Plan in 2009. The reason given by the ministry was that the people's plan was "scientifically inaccurate."

The coalition in the face of this stalemate petered out and then fell apart. The major weakness of the coalition was its short perspective which blinded it to important

aspects that should have been taken into account which includes; specific framing of issues, less criticism of state processes, more involvement of academics in the technical and core policy group and the building of a distinct constituency. For instance one recurrent theme found was the idea of the value of scientific knowledge over local or indigenous knowledge. The NBSAP coalition placed paramount importance on the experience and language of locals as representatives of nature. This was often in conflict with framing of policy documents that officials claimed should reflect the science and tenor of official government documents.

The NBSAP's formulation process was mainly centered at the community and grassroots level, however, they failed to build up an active constituency that would garner support and advocate against the government once the policy was rejected at a central level. This could be because of two reasons:

1. Kalpavriksh, the main coordinator is basically an urban-based NGO that deals with issues of livelihood and community rights. They fulfill a role between the local and the state with programs that are diffused over many communities and landscapes but grow no roots within any one community, which could then become part of to their constituency.

2. The network of the Technical and Policy Core Group are a group with loose affiliations that coordinated action for the first time. Though they did have a core belief in community rights and participation, they had many differences in the form and issues the NBSAP integrated. As it was a mix of professionals from various sectors, time constraints, differences in priorities and varied dependence on state, kept them from forming a strong advocacy group once the state became less responsive.

The coalition advocating with the state on the NBSAP had a more dynamic vision of rights than the one advocating on the Biodiversity Bill. The NBSAP wanted constituents to articulate their own rights and wanted the policy document to reflect the diversity of voices and interpretations. It attempted a highly participatory formulation process that attempted to reach out to ' a large number of village level organizations and movements, NGOs, academicians and scientists, government officers from various line agencies, the private sector, the armed forces, politicians

and others who have a stake in biodiversity' (NBSAP background paper, Kalpavriksh). Adding to more formal methods of research like questionnaires, thematic working groups and academic papers. It also held public hearings, biodiversity festivals, school involvement, cultural programs, cycle and bullock cart rallies. Not only did the Technical and core policy group who functioned as a formal coalition use flexible methodology, they also attempted to interpret the formal modes of participation within a policy process.

The Biodiversity Act however followed far more traditional modes of participation. They shared a common belief in 'protecting biodiversity and the rights of *adivasi* and rural communities' and followed a more 'acceptable' route of policy formulation, by which they represented these communities they advocated for without giving the communities themselves direct voice or representation. The group gene campaign lead by a scientist Suman Sahai began advocating for legislation to "protect Indian interests in genetic resources". This led to the Ministry of Environment and Forests constituting an expert committee to prepare a draft law on biodiversity. Dr. M.S. Swaminathan, a well known agricultural scientists chaired the expert committee, which produced a draft. On further pressure, this draft was released for public discussion, which garnered many inputs, which 'continued for a few years and gradually the draft Bill became more and more confused as suggestions were incorporated without examining their applicability or suitability'¹¹. Though both processes involved a high level of discussion and deliberation and both results were termed 'diluted' in terms of the force of policy or legislation.

In the case of the NBSAP, the document in the process of formulation was discussed at a state and local level to various degrees, in different forms and context. Local level participants attempted to understand and interpret an integrated biodiversity in local terms. In the case of the Biodiversity Act, it was put up for deliberation on the ministry website and though consultations were conducted over many years, it was not to a scale that all could relate to. Discussions on the act happened at professional forums or through the Internet, which limits access.

¹¹ Interview with Suman Sahai, Gene Campaign.

The NBSAP was labeled “unscientific“ (Kohli: 2009) and “too diluted“ (interview with Sujatha Arora, MoEF). The draft NBSAP was first reduced to a 'technical report' (2004) and then further demoted to a 'consultancy report'. In 2009, MoEF authored its own version of the National Biodiversity Action Plan (NBAP), written by Dr. Sujata Arora and Dr. J R Bhatt, both MoEF officials. Some critical additions and emphasis appeared including valuation of goods and services provided by biodiversity and the use of economic instruments in making decisions that impact biodiversity. In one scathing review, a member of Kalpavriksh notes “Very disturbingly, the NBAP in several places also justifies the use of biotechnology, which promotes monoculture and stands in complete contradiction to the variety of life forms the term 'biodiversity' encompasses within itself... In classical parlance the word bio-prospecting is embedded in the language of access for the purpose of trade, which is what the MoEF has in store for India's biodiversity.¹²”

The Biodiversity Act too was considered “a weak document”. Amongst other problems, one of the most glaring is that there is no space given within the act as to what kind of IPR will be permissible or not. Related to its ambiguous position on IPRs is that the act demarcates no system for deciding the nature and extent of benefit sharing. The decision is divided arbitrarily between the National Biodiversity Authority, also set up within the act, or the Central and State governments. Local communities are given insufficient rights, as they cannot oppose the grant of a patent or other IPR on biological material taken from them, nor do they have a say in what will be ‘equitable’ sharing of benefits. As Suman Sahai, one of the founding members of the act puts it “What started as an effort to have a participatory, enabling legislation, has ended up as the usual kind of law framed by bureaucrats where the local communities have been pretty much left out of the general scheme of things supposedly set in place for them.”

In addition the Biodiversity Act had a more formal process entrenched in the proceedings of parliament which followed a familiar policy process where the concerned ministry, the MoEF drafts a law, though the awareness towards a need for a law was raised by concerned citizenry. The Bill is circulated to other relevant

¹² Kohli, Kanchi (30th March, 2009) ‘NBSAP to NBAP: The downward spiral’. India Together.

ministries for inputs. Comments from the public on the proposed draft may also be invited which was the case with the Biodiversity Bill whereas the NBSAP was seen as a more 'soft' policy process, where the process of formulation was seen as a valuable addition in informing stakeholders at a grassroots level. Though the stalemate was questioned in the Lok Sabha (Lower House of Parliament) in December 2004, there were no formal arenas of redress and no space to question the states silence and lack of compliance of the document.

5 Conclusion

Do global regimes form an effective basis for advocacy coalitions at the domestic level? With regard to the two on India's biodiversity policies, it has been shown that the domestic coalitions did draw strength from the ratification of the CBD that signaled a window of opportunity that right-based advocacy and legislation could be pushed through to a receptive state. These examples suggest that firstly by ratifying global conventions, relational forces within civil society will be altered strengthening the position of certain groups like the pro rights people centered advocacy groups and discourses and sidelining others like the conservationists. Secondly, there could be an opportunity that advocacy organizations could restructure political processes and planning vis-a-vis the state. Conventions like the CBD can kick-start rights based advocacy even in settings where these approaches have very little resonance with the state. However, it was broad ideals that were outlined and open to interpretation within a domestic policy space. In this analysis, it is clear that that international debates gave much credence to the actors involved in biodiversity policy formulation in India, giving it an over arching frame of reference that could be adapted to the domestic context. It is clear that the frames of participation, mechanisms of access and benefit sharing and a rights based approach was absorbed by domestic actors in their advocacy for opening up the policy process to a more diverse set of voices. The important aspect here is not just that domestic actors within a state are receptive to normative influences, but that the state or departments within it should be open to changes in institutional culture filtering down from the international sphere.

The problems of the NBSAP were reflected in a clash of values or beliefs,

institutional core values versus values of community, participation propagated by a core coalition of people. It was also a conflict of frames in which the values were communicated whether they were ingrained in constitutional structures or not. Though neither the Act nor the Plan were unadulterated successes, they are useful to study in terms of a state's compliance to international conventions and domestic actor's interpretation of those commitments. To that end, the importance of this study is to see that global conventions and instruments influence domestic activist frameworks in diverse ways and on different levels of policy. The global level can operate as an alternate arena for local activists as the demands for IPR's show, but also can be used as tools to redefine the landscape of advocacy in the domestic space. These two cases show that a state can react in different ways even after ratification of a global convention. The NBSAP opened the door to the emergence of a pro participatory policy formulation process while the Biodiversity Act helped tilt the balance of power within the civil society. These are two ways in which a norm can both fail and push a pro rights agenda forward. Without the CBD, it is highly unlikely that the cohesive networks of the NBSAP and Biodiversity Act would have come into being. It is impossible to understand these two policies and the state's role in negotiating them without the historical context of India's environmental policy and the thrust of international debates, ideas and conventions. Thus the research shows that domestic advocacy coalitions can use global instruments to leverage their position when they take the ratification of treaties as their point of departure. However it has to be supplemented with a responsive state, political strategizing and the frames most conducive to policy adoption.

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