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POLICY DIAGNOSTIC
STUDY REPORT

September 2012
Nepal

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Foreword

As Nepal transitions through the process of state restructuring, both state and non-state actors face enormous challenges in reframing and resolving public policy dilemmas at different levels of governance. As the entire foregoing structure of governance has been challenged, and visions for the new order are being injected into the public domain, policy actors are in particular need of critical knowledge as to how complex policy politics could be understood and policy alternatives could be crafted to take advantage of unfolding opportunities for public policy reform in a more stable, restructured, and democratic Nepal.

The Asia Foundation and its Nepali partner Niti Foundation, a public policy research and grant-making organization, seeks to support much-needed research, analysis, and action around public policy issues in Nepal. We commissioned this diagnostic study to inform our mutual interest in Nepali public policy and to maintain a disciplined approach to supporting future policy reform.

The first chapter of this study outlines the purpose and method of the study. The second chapter identifies core elements of an ideal, democratic policy-making process. The third chapter is a diagnosis of the representation, implementation, and accountability elements in Nepal's public policy process.

We are grateful to Prof. Deborah Stone from Dartmouth University for leading the team that conducted the diagnostic study and prepared this report; to Mr. Jorrit Jong from Harvard University for designing the deliberative process of inquiry deployed for the study; and to our Nepal-based colleagues – Dr. Hemanta Ojha, Dr. Hari Dhungana, Mr. Basanta Pokharel, and Mr. Mohan Das Manandhar – for their thoughtful contributions. This study benefited from the valuable advice of a steering committee as well as the inputs of many "policy lab" participants; we are thankful for their time and support.

We hope that this study will be useful for policy actors, researchers and students of public policy, and the general public in understanding the challenges and opportunities that exist in Nepal's public policy process.

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September 2012

Chapter One

Purpose and Method

This report aims to help develop an inclusive policy process that honors Nepal's cultural values and fully utilizes its wealth of human capital. In 2010, Niti Foundation with support from The Asia Foundation (TAF) Nepal commissioned this study as part of its effort to build sustainable, in-country capacity for policy deliberation and policymaking under the (still evolving and much hoped for) new constitution.[1]

Niti Foundation is a Nepali non-profit organization that funds policy research, innovations, and alternatives. With local and international support, Niti promotes individual and organizational initiatives that strengthen policy engagement and ownership capacity in Nepal. Through its funding and technical assistance, Niti enables access to intellectual resources and platforms for policy discourse and contestation. The purpose of this report is to diagnose the public policy process in Nepal to create a guiding framework for Niti's goal of functioning policy engagement. In our early meetings, we established the following steps:

1. Identify the core elements of an ideal, well-functioning democratic policy making process.
2. Compare major elements of Nepali policymaking with the ideal template and identify gaps, weaknesses, and blockages.
3. Design and pilot test a deliberative process for policy change. The process engages policy actors, thinkers, and leaders in diagnosing policymaking problems and identifying promising avenues of research and policy experimentation for Niti, TAF, and others to pursue.

From the outset, we highlight three qualifications to our ideal template. First, any ideal varies in its specifics across different political entities, political cultures, and political histories. We are not suggesting that Nepal's policymaking process should somehow morph to fit a universal ideal. Second, an ideal is only an ideal. It is not fully realized in any country or political system, including those from whence most of the theories about policymaking come. Third, the purpose of our ideal template is to provide some criteria against which any policymaking process can be evaluated. The template is decidedly not meant to perform foreign transplants, impose academic theories, or frame problems through the lenses of development funding agencies. We approached this report with humility towards a daunting task and deep admiration for the many people who are working towards a democratic future for Nepal.

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Methods

Niti assembled a team consisting of two international and four Nepali members. The team was guided by a steering committee and assisted by two staff associates *(see Appendix 1)*. In August/ September 2010, the research team began its work with a briefing by the steering committee. We interviewed 12 people with exposure to policymaking *(see Appendix 2)*. We asked our interview partners to give us their views of Nepali policymaking, their analysis of problems and bottlenecks, and their thoughts on possible action opportunities. The interviews were free-ranging, but we focused them by asking each person to begin by describing their most successful effort at policy change and to explain why they thought it had been successful. We asked them to tell us another story about a thwarted or failed attempt at policy change and, again, asked them to explain the causes of failure. Some common themes emerged from these interviews: in one way or another, all believed that representation, implementation, and accountability are problems.

Based on these three generic problems and a conceptual framework provided by Professor Stone, the team conducted a literature review to locate Nepali policymaking practices in relation to these

concepts. To gain a more concrete understanding of Nepali policymaking, we conducted some case studies of specific policy problems. We generated a list of about twenty possibilities, then selected three topics to represent a broad range of policy sectors and procedural issues: hydropower (an economic and infrastructure issue), local democracy (a political and administrative issue), and public education (primarily a social issue).

Meanwhile, we developed procedures to run and evaluate deliberative forums to engage Nepali leaders and experts in the analysis. We named these forums "Policy Labs," choosing this scientific metaphor for two reasons. First, like science, the goal of the deliberative forums is to develop knowledge through systematic observations. A key part of scientific method is that each scientist allows his or her observations to be repeated, tested, and cross-checked by others. Second, a laboratory connotes a secluded space removed from daily hubbub and personal stresses to permit concentration and reflection. The deliberative forums, we hope, will encourage exactly this kind of collaborative empiricism in the service of understanding and progress.

Between November 30 and December 2, 2010, the team ran three Policy Labs. Each lab was a three-hour, structured discussion with nine to twelve participants moderated by external facilitators. Jorrit de Jong served the role of moderator and Deborah Stone acted as a synthesizer and reflector.

Meanwhile, we developed plans to run and evaluate deliberative forums to engage Nepali leaders and experts in the analysis. We named these forums "Policy Labs"...

The participants *(see Appendix 3)* were selected by Niti Foundation in consultation with the steering committee. Participants were selected to represent a diversity of policy and professional expertise, experience, institutional affiliations, and ideological predispositions. Within the scheduling constraints of each invitee, we aimed to create diversity within each lab. The participants consisted of:

1. Non-state actors: civil society leaders and private sector representatives, both from small and large organizations. The research team observed that these actors are usually closer to the realities

of policy failure. Their experiences and suggestions could generate more focused questions in comparison to the second and third group.
2. Civil Servants: senior and former bureaucrats from the Government of Nepal.
3. Politicians: party politicians were selected based on their ability to transcend partisan sentiments and their ability to reimagine the role of politics in the policymaking process.

Each lab began with a discussion of two case studies, with questions focused on the participants' analysis of blockages in representation, implementation, and accountability, and ended with constructive suggestions for Niti programs. Immediately following each lab, the team met to reflect on how the deliberative process had worked and the most significant suggestions for further research. The labs were videotaped. In addition, the research associates served as observers and notetakers, and later transcribed the lab sessions and synthesized the key points.

In sum, we designed this study and the labs with three goals in mind. First, by focusing lab participants' attention on policy-specific case studies, we hoped to generate diagnostic insights into the policy process. Second, we wanted to go beyond identifying ways to improve policymaking to experiment with ways of organizing constructive policy deliberations. Third, we wanted to use the lessons learned to identify how Niti could most fruitfully be developed. However, it should be noted that the policy labs provided quick perceptions of the participants, who have long been involved in Nepal's policy process, and not detailed research findings on any particular issue. The boxed quotations in Chapter 3 are representative of the types of comments participants made.

Chapter Two

The Ideal Template

Policy can be simply defined as what government does to solve public problems. As with all things in life, there is always a discrepancy between what government actually does—how it makes policies and with what results—and ideal visions of how policymaking should work. Nevertheless, in any reform moment, it is necessary to articulate goals.

To use an exploration analogy, if you're traveling into unknown territory, you can set your compass to the direction you want to go without knowing exactly what's there and what the place will look like close-up. Thus, we started with an ideal template of a well-functioning policy process.

Policymaking in a democracy must fulfill three key functions:

1. Representation: citizens must have a way to make their problems and needs known to government officials, and a way to make demands on officials to use government to address their problems.
2. Implementation: once public officials pass laws and regulations, there must be systems for putting these policies into practice, or to put it another way, for translating words on paper into human actions.
3. Accountability: there must be mechanisms by which officials are monitored, evaluated, and sanctioned when they have not met their responsibilities to carry out policy.

In our preliminary interviews, these three areas emerged immediately and obviously as parts of the Nepali policy process where there are significant weaknesses, blockages, or breakdowns. It was clear that Nepali policy actors and thinkers use these concepts and deem them important.[2] In this chapter we lay out a conceptual framework for these concepts and specify criteria that can be

used to evaluate the three aspects of policymaking in Nepal. In Chapter 3 we apply these criteria to identify weaknesses and blockages in Nepal, using information from the Policy Labs, literature, news articles, and our case studies. In Chapter 5 we use the criteria along with ideas from the Policy Labs to suggest action opportunities. We label the criteria in this chapter with tags such as REP 1, IMP 1, and ACC 1 and use the tags in brackets in later chapters to refer back to the criteria.

Representation

In democratic theory as well as Nepal's liberal democracy framework, representation is defined as citizen participation in and influence over *the selection of government officials*. Elections are indeed extremely important mechanisms of representation, but we think this definition limits the concept of active citizenship. Moreover, elections provide only very attenuated and infrequent opportunities for citizens to express their needs and make demands. Therefore, we take a broader view of representation by starting with its purpose rather than any one procedure. *The purpose of representation is to enable citizens to express their needs and convert their needs into demands on government*. By focusing on the purpose of representation, we can not only address weaknesses in the electoral system, but also other mechanisms for enabling citizens to express their needs and make demands on government.

Elections: To be effective as representation mechanisms, electoral systems must meet certain criteria:

REP 1. Elections should include all people who are affected by government policy in the voting procedures—that is, they must grant voting rights (suffrage) to all affected.

REP 2. Elections should ensure that people who have formal legal voting rights are in fact able to register to vote and cast ballots.

REP 3. There should be elections for each of the important levels of government policy making—not only national institutions, but especially local institutions whose policies affect daily life most directly, such as local government, district development committees, and school boards.

REP 4. Potential voters should be able to communicate with elected officials and party leaders who organize elections and stand as candidates for office.

Elections are the primary mechanism for representation in democracies. However, even the most representative and honest elections are not sufficient to ensure that government officials incorporate citizens' preferences in their policy decisions during the periods between elections. Nor can periodic elections prevent officials from abusing their power, acting outside the law, or engaging in corruption. Therefore, more ongoing participatory institutions are necessary for effective representation.

Interest Groups: Interest groups are associations of citizens who share an objective and work as a group to make their demands heard. Typically, they are non-elected civic associations and trade associations. They bring needs and demands to officials by consolidating voting blocs in elections, and by meeting and negotiating with public officials over specific policies. In any society some interest groups are more powerful than others because they have more political resources (e.g., shared social background with government officials, money to make donations, or educational advantages). Therefore, two criteria can be used to diagnose problems with the capacity of interest groups to represent citizens:

REP 5. Power disparities between interest groups and their causes should be identified.

REP 6. Existing mechanisms for correcting imbalances should be identified, and either new mechanisms or ideas for how such mechanisms can be improved should be suggested.

Public Meetings and Hearings: Such forums allow citizens to express themselves more fully in the context of specific policy decisions, and they provide officials with more textured, nuanced information about citizen needs and preferences. Criteria:

REP 7. Public meetings or hearings should be a standard part of policymaking.

REP 8. Invitations to hearings should be broadly distributed to all groups affected by a policy.

REP 9. There should be appropriate accommodations to formats and procedures of public hearings to enable disadvantaged groups to participate fully.

Representation on Public Agency Boards: Citizens can be given seats on regulatory bodies and agencies that carry out national laws, such as local voter registration offices, land title offices, or military draft boards. Criteria:

REP 10. Policymakers should ascertain to what extent there is citizen representation on agency boards.

REP 11. Policymakers should explore whether such boards can be created in various policy areas in lieu of a hierarchical bureaucratic system where a single local official has sole authority to implement policy.

Descriptive Representation and "Positive Discrimination": Descriptive representation refers to having elected officials who are members of the same demographic social group as their constituents, such as of the same caste, race, ethnicity, gender, indigenous group, or religion, to name a few categories in current politics. Though often disparaged as "identity politics," demands for descriptive representation of previously and/or currently underrepresented groups are prevalent in all democratic systems, including Nepal's. Policies to enhance descriptive representation include quotas for members of specific groups on party lists, reserved seats in legislative institutions or on boards, and preference policies in the allocation of jobs and school places. Two criteria can be used to assess this aspect of representation:

REP 14. Those groups that are underrepresented in legislative bodies, party leadership and party candidate lists, government offices, and educational institutions should be determined.

REP 15. Existing or potential mechanisms for correcting underrepresentation should be determined.

Implementation

Implementation is a fancy word for carrying out a policy or program. More formally, it describes the transformation of policy into administration and administration into programs. Scholars look

at implementation from two perspectives. In the "top-down" view, implementation occurs in a hierarchical manner as officials at the top of a bureaucracy transmit orders to lower-level officials about how to act. In the "bottom-up" view, implementation occurs in reciprocal, negotiated relationships, as "street-level bureaucrats" negotiate with upper-level officials and citizens, using a high degree of discretion to interpret policy rules and citizens' claims.[3] Both perspectives are important.

Below we identify critical capacities that must be fulfilled if implementation is to be successful. The first six criteria derive primarily from the top-down perspective:

IMP 1. There should be an unambiguous statutory definition of responsibility for implementation, especially a mandate and time limit for issuing directives to officials responsible for implementing a policy.

IMP 2. There should be clear and precise rules in the policy statement, law, or regulation.[4]

IMP 3. Implementing agencies and posts should be staffed with people who have the right skills, education, experience, and competencies for the relevant policy.

IMP 4. Implementing agencies and posts should be staffed with people who are committed to the policy (as opposed to having a vested interest in the status quo).

IMP 5. The law or regulation should provide capacity for coordination and planning among different agencies and actors whose participation in policy implementation is essential.

IMP 6. The law or regulation should provide the resources and budget to implement the policy.

In the bottom-up perspective, implementation requires cooperation and participation by the people to whom a policy applies. Implementation often *begins* with citizens who exercise their rights and make claims on government for the execution of policy—for example, sending children to school, applying for a land title certificate, seeking a business license or permit, or obtaining a voter ID. From the bottom-up perspective, there are certain additional preconditions for successful implementation:

IMP 7. Citizens must have adequate knowledge of rights or available policy benefits.

IMP 8. Literacy must be recognized as a prerequisite for citizens to play their part in implementation.

IMP 9. Citizens must have relatively easy access to officials and the procedures for claims making—for example, a reasonable distance between government offices and where people live, and reasonable waiting times to meet with officials.

IMP 10. Citizens must have basic economic security so that they can take time off from farming or wage work to exercise their rights.

IMP 11. Stakeholders in a policy should be involved in developing it and its administrative guidelines so that they feel a sense of ownership and legitimacy about the rules.

The criteria IMP 7 through IMP 11 are basic developmental and structural issues rather than more discrete criteria that could be translated into an operational plan. However, we list them as criteria for assessing implementation because they suggest very targeted reform ideas. For example, to better implement the right to maternal transmission of citizenship (in the interim constitution), Niti Foundation could develop a literacy curriculum specifically focused on teaching citizenship rights and how to apply for citizenship. The criterion IMP 9 (economic security to enable political participation) could just as well be an aspect of representation, and in fact, it overlaps with the criteria REP 7 through REP 11 concerning ability of citizens to participate in public hearings and agency boards.

Accountability

"Accountability is one of those golden concepts that no one can be against."[5] It is sometimes defined normatively as a personal or organizational virtue synonymous with *responsible*. For our purposes, we will use the other more empirical or descriptive concept: a mechanism or process by which a policy actor must explain and justify his/its conduct to a forum and the forum evaluates and possibly punishes the actor.[6] Accountability is thus a relationship between public officials or

other policy actors and a broader public or citizenry. In a sense, accountability is the flip side of representation. Representation provides a check on the abuse of power *before* officials get into power. Accountability provides a check on the abuse of power *after* officials exercise their power.

To develop more specific criteria for assessing accountability, we also used the formal definition of two international relations scholars.[7] For them, accountability means that some actors have the right
1. to hold other actors to a set of standards;
2. to judge whether they have fulfilled their responsibilities in light of the standards; and
3. to impose sanctions if they determine that the responsibilities have not been met.

Accountability thus implies a system of establishing goals and standards, a mechanism for monitoring and oversight, and a means of punishing or sanctioning officials who do not perform their duties. We identified the following elements of accountability that can be used as criteria for assessing accountability weaknesses:

ACC 1. Officials must inform the public about their actions. They must keep accurate and honest records and allow access to their records. This idea is often called "transparency."

ACC 2. There must be clear designation of people with authority to monitor and oversee the behavior of public officials.

ACC 3. The monitors must have investigatory capacity and alternative sources of information to cross-check the accuracy of officials' records and accounts of their behavior.

ACC 4. The monitors must have independence from the officials they are monitoring; if they are dependent on the officials for resources or their jobs, they cannot hold the officials to account.

ACC 5. There must be a process of enforcement that includes sanctions on officials who do not meet their responsibilities and faithfully implement policy.

Besides the process dimension (addressed by the above five criteria), accountability has a substantive dimension—accountability for *what*?[8]

ACC 6: Policy actors should be accountable for *finances*. They must spend public money for legally authorized purposes; must spend it efficiently (not waste or squander it, or use it to pay people who lack competence to fulfill the purpose); and, of course, must not steal it for their own or their friends' aggrandizement.

ACC 7: Policy actors should be accountable for *fairness*. They should follow standards of procedural justice and equity in their treatment of citizens, program clients, government employees, businesses, contractors, and organizations who depend on government for licenses, entitlements, and services.

When we speak of officials or government "abusing power," we mean that they have not observed either of these two dimensions of accountability.

In most industrialized countries, scholars, civil servants, and entrepreneurs debate whether there is too much or too little accountability—an "accountability overload" or an "accountability deficit."[9] As part of neoliberalism (or "the Washington Consensus"), businesses and public officials criticize accountability regimes as excessive and detrimental to their capacity to get things done and to innovate. However, the larger strand of criticism points to an accountability deficit. These critics point to the growing complexity of policymaking that makes it difficult to understand, let alone monitor the ability of policy actors to strategically evade accountability requirements and the imbalance of resources between power-holders and accountability-holders. From the very beginning of our study, our interviewees and later the Policy Lab participants emphasized that, for Nepal, they see *the* biggest problem as an accountability deficit.

Chapter Three

Policy Blockages and Challenges in Nepal

In this chapter, we diagnose problems in representation, implementation, and accountability. We draw the diagnoses primarily from the Policy Labs, but we also draw from our individual interviews, literature review, team members' experiences, and news stories.

Statements by participants in the Policy Labs represent their individual perceptions about policymaking and should not be taken as researched or documented findings. Nevertheless, there was a great deal of consensus among the participants about the nature of Nepal's problems. Moreover, perceptions of policy actors about how the process works and about their capacities to influence it are important factors for understanding reform possibilities. That is why we used the Policy Labs as the main method for doing this study.

Before delving into the analysis, we want to say something about the concept of *public* embedded in public policy studies and how Nepali concepts differ. In the dominant Western liberal tradition, the public sphere is seen as the aggregation of individual interests, and public problems are those problems that many individuals have in common. Less prevalent communitarian notions of *public* start from the premise that a community has its own life as an entity, and that the meaning of *public* is more than the sum of individual interests. Importantly, in both views, the purpose of government is to make policy that serves the people.

In Nepal, there are multiple notions of the term *public* that express some sense of commonness and shared experience, but that do not correspond with the Western idea of *public* in *public*

policy. *Samudayik* connotes local community; *samajik* connotes social relationships; and *sarkari* connotes government in the sense of public enterprises. There has been little belief in the idea that government serves the people. The Rana regime (1846-1951 A.D.), for example, believed quite the opposite—that the state and the populace belonged to *them*—and therefore they designed the governing apparatus to serve their needs, not the people's needs or the public interest.

To a large extent, this view of the relationship between government and the people still prevails in Nepal, meaning that many Nepalis may have a difficult time relating to the concepts of representation, implementation, and accountability. If people do not understand that policy is supposed to be theirs because they do not grasp the concept of *public*, they will not be worried about representation, implementation, or accountability. This is a cultural pattern that can not be changed cleanly and quickly.

If people do not understand that policy is supposed to be theirs because they do not grasp the concept of public, they won't be worried about representation, implementation, or accountability.

Representation

Representation should enable citizens to express their needs and convert their needs into demands on government. The most striking feature of Nepali politics is the propensity of citizens to express their needs through protests and obstruction—general strikes enforced by street demonstrations (*bandhs*), picketing to shut down public buildings and facilities (*gheraos*), and disabling cars to cause traffic jams (*chakka jams*). Such protests take place at every level of government: local/neighborhood, district, municipal, and national. As the Kathmandu garbage problem pungently demonstrates,[10] the regular channels for citizens to express their interests and negotiate with public officials are broken.

The extraordinary frequency and range of obstructionist protest evidences a failure of representation. Protest is a symptom, not the problem itself: the proliferation of *bandhs* and other protests indicates that other regular, more effective mechanisms for conveying interests are lacking. However, this is

a problem that some Nepalis take so much for granted that no participants spoke about it until the "outsiders" (international research team members) remarked on it.

THE KATHMANDU GARBAGE STRIKE

For two weeks in August and September 2010, garbage piled up in the streets of Kathmandu. A mere two dozen residents near the Sisdole landfill prevented municipal garbage trucks from entering the site and announced they would continue their blockage until the Kathmandu Municipal Government met their thirteen-point list of demands. The demands included standard services and development projects that citizens usually want from government: jobs as drivers and landfill workers, a safer access road to the landfill, blacktopped roads in every ward, and a local hospital. Ten days into the strike, officials reached a settlement with the locals, but the next day before garbage pick-up could begin again a new group of locals resumed the disruption, claiming their interests had not been represented by the first group. Newspapers reported that this was the sixty-fifth time garbage collection had been disrupted since the landfill opened in 2005. Each time, protesters and officials reached a settlement, and, each time, the government failed to implement the settlement so citizens resorted to disruption again.

Lack of local elections is perhaps the major deficiency in representation. There have been no elections to local government bodies since 2001. Since then, the local government has been run either by non-elected party members or appointed officials. An unelected seven-party mechanism was put in place to make resource allocations and other decisions at local and district levels. Thus, the civil servants who nominally run local government were under the authority of this seven-party mechanism. After the dissolution of the seven-party mechanism toward the end of 2011, the authority has been in the hands of the civil servants. Community groups, too, are affected by the lack of local elections. For example, it is very common to find that the chairpersons of the School Management Committees (SMCs) are party members, through whom the parties control the schools, teachers, and school budgets.

Because policy formulation has largely become the role and responsibility of political parties, several problems arise:

1. There are over twenty-five national political parties, with splinter groups forming periodically. Their disagreements are sometimes ideological and sometimes based on hard-and-fast positions on one particular issue, such as how to organize a federal system or how to integrate the former PLA soldiers. The two political party representatives who participated in Policy Labs said it is

very difficult for parties to reach a consensus on anything. Party leaders have no mechanism or desire for receiving substantive policy inputs to be able to develop their own stances on specific policy issues.

2. Party politics are often based on relationships rather than programs. Party leaders at all levels consider personal and family loyalties when they make decisions and distribute resources. For example, the party members running the SMCs distribute scholarship funds to the families who have proven associations with them.

3. In order to maximize their share of votes, party politicians sometimes convey different messages and platforms to different constituencies. The international team members hasten to note that this behavior is no different in other multiparty electoral systems, including India and the U.S.[11] Still, the point remains: message splintering blocks formation of coherent party platforms and passage of coherent policies.

4. Finally, since the Comprehensive Peace Agreement, party leaders were almost completely focused on constitutional design and their power positions within a new constitutional structure, to the neglect of substantive policy issues. Even after four years of sporadic, intense initiatives, the party leaders were unsuccessful in promulgating a new constitution. We note again, as we did in Chapter 1, that the lack of a constitution so far is a larger contextual problem—almost determinative of Nepali policymaking now, but beyond the scope of this report.

Another obstacle to representation has to do with the complexity of interests and multiple ways of framing problems—again, something not unique to Nepal. This problem is vividly illustrated in the following depiction of electricity:

WHAT KEEPS NEPAL IN THE DARK?

"Under the common identity of 'consumers,' we all agree that we don't want to live in the dark. There's consensus. But when it comes to implementing the policy, the priorities are different depending on which part of the country you are from and what your background is. The problem of power cuts or load shedding means different things to different people. For villagers, the problem may be about just an electric bulb for light, but for others who live in the cities, it is a different and more serious problem, and varies across industrialists, housewives, carpenters, welders, or students."

Citizens have multiple identities and therefore multiple political interests and needs. These identities include legal citizenship status, economic status, gender, caste, indigenousness, and religion, among others. Multiple identities are a fact of social and cultural life, and they constitute a problem for political representation everywhere. Identity politics generally become more salient and conflictual at moments of system change, especially constitution formation. In such moments, demands for *descriptive representation* and sometimes *preference policies* become prominent, perhaps even more important than demands for services or development projects.

"Political and economic power is converged in those who belong to the higher castes. So no matter what political system you have, Panchayat or political parties, it is the same set of people who get elected to positions of power."[12]

Representation in Nepal suffers from the special problem of the Hindu caste system, which in 1854 was established as part of the civil code (*Muluki Ain*). Although this code was formally abolished in 1963, and all Nepalis were declared to be equal citizens, caste remains the strongest determinant of political power and government jobs. Partly in response to this imbalance, multiple forms of representation beyond the political party system have emerged, both enhancing and complicating the legitimacy of representation. These forms include ethnic, caste, and religious associations; users' groups and their federations; business associations and syndicates; trade unions; indigenous people's groups and movements; and territorial associations (notably the Madhesi groups). As in other societies, identity-group politics almost always cut across other kinds of representation, especially territorial jurisdictions. For political leaders, the chief strategy of political mobilization and building a power base is to make appeals and build alliances across these identities. For example, a women's interest group would try to recruit women from all castes on the basis of their common gender interests.

The issue of overlapping memberships is particularly acute for Nepal because of the formation of a new federal system. Drawing the boundaries for state governments will necessarily allocate voting power among different groups. If and when a federal "map" is agreed upon and a federal system is created, the most important factor in sustaining its legitimacy will be assuring citizens that their identity interests will be represented.

In the new political system, there will be critical need for channels and forums that can articulate broader, common interests that transcend interest groups and identity groups.

PRIVATE SOLUTIONS TO PUBLIC PROBLEMS

Comments on the Hydropower Case

"The impact of load shedding is different amongst different constituencies. For example, I have not really felt the impact of this load shedding because there are alternative ways of getting energy—and I am sure many of our politicians feel the same. So therefore, we may have democracy on paper but not really. . . . People who are in the position to make a difference don't feel it because they don't feel the impact of the energy crisis. This is a crisis of representation."

"Billions have been spent on inverters and solar trade, so lack of money is not the problem. There has been a doubling of petroleum consumption in the last three years. From my rough calculation, most of it is accounted by private generators used because NEA [National Electricity Authority] has not been able to provide electricity."

The two comments above highlight another dilemma of representation: some people rely on government for the provision of essential services, such as electricity and education, while others are able to secure these services themselves through generators, solar heaters, and private schools. Bifurcation of public and private service provision by wealth is not unique to Nepal or to developing countries, but it is perhaps more acute in Nepal because public institutions are not so well established.

This bifurcation of service provision undermines representativeness in the policy process. Elites and members of the middle class are the people most likely to participate in politics and make demands on government, and they have more power and resources than people with less education and wealth. But if they do not *need* services from government, they are not motivated to represent the general public by demanding services. As one of the lab participants astutely noted (in the box above), this is another kind of "crisis of representation."

Finally, in the policy labs we observed a disturbing sense of powerlessness among the participants, all of whom could be said to be among the elite and to possess a generous quantum of social, educational, economic, and even political resources. Many of our participants, who are in positions to influence the policy process but who are placed outside the bureaucracy, did not identify themselves as policy actors. They tended to see themselves as "only" technical experts, and tended

to limit their roles to advising and perhaps demanding better conditions for their professions and businesses. The Policy Labs were extremely useful in making this withdrawal visible, and we believe deliberative forums like the labs could be an important mechanism for recruiting greater participation by experienced, talented, and knowledgeable people such as our lab participants.

Implementation

Many of the blockages in implementation derive from the same problems that hinder effective representation. We first discuss some general features of Nepali politics that hinder effective implementation; then we consider more specific features of policy implementation per se.

First and foremost, while the political system is in transition ("chaos" was the term more often used), few people are paying attention to implementation. The multiparty arrangement for local government was an ad hoc mechanism that blurred the representation and implementation functions, and, now, even that is nonexistent.

Second, the most basic criterion for effective implementation is not met. For most policies, there is no clear statutory definition of responsibility for implementation, nor are there any procedures or time limits for issuing guidelines to lower-level officials.

RENT SEEKING

"Let's not forget that load shedding is not new—it has been going on cyclically since the 1970s, only this time it has been more severe. The reason why this happens is that the essence of the whole nexus between the bureaucracy and the political party financing lies in creating scarcity of electricity so that you can control it and do the rent seeking."

"The bottleneck is that most of the license holders of hydropower projects are political party leaders."

"The stakeholders are not constructively engaged with each other on this issue [hydropower]. Political parties, NEA, and Ministry of Energy are interested more in personal benefits and not for the national interest."

"Yes, politicians have to reach a consensus first to reduce load shedding, but we are not in the position to have a consensus on giving a prime minister to the country, so how can we agree on load shedding? Politicians are keeping themselves in the center and trying to figure out what they will get from any deal—load shedding, the constitution."

Third—but definitely first in many people's minds—rent-seeking derails effective implementation. Civil servants and party leaders use their broad discretionary power to serve their own interests. According to Policy Lab participants, misuse of development resources through the multiparty mechanism has been widespread and systematic. And, indeed, Nepal's showing in Transparency International's Corruption Perceptions Index has deteriorated over recent years.[13]

Fourth, lab participants described "excessive politicization of implementation," especially, control of implementation by party cadres. At the local level, implementation of programs is left to the discretion and whims of political parties. For example, local party leaders decide on irrigation projects according to their own interests without regard to economic viability. One of the policy lab participants mentioned that teachers who work in government schools have turned into party cadres and "are being dragged into politics through unions." The substitution of party cadres for government employees leads to three problems: (1) the people responsible for implementation are not selected for their skills, education, and experience; (2) they are possibly not committed to the policy they are supposed to implement but rather have a vested interest in the status quo; and (3) they are not subject to supervision by government officials to ensure that they carry out policies according to clear, precise rules and directives.

Fifth, at the same time as much implementation is decentralized to local and regional levels, there is also a kind of excessive centralization. According to a former administrator, there are significant communication barriers between bureaucrats and political officials (ministers).

> "Devolution of authority is so weak that we have to look up to the few people who govern the country one way or the other all the time, and if you look at it from that point of view, it wasn't very different when one or two counted during the monarchy and maybe five or six counted when there was a majority government."

Other implementation blockages are more discrete and not particularly due to the unsettled political situation or to Nepal's historic centralization of power. Even where some devolution of authority exists, there is a lack of clear delineation of responsibilities and guidelines for implementation. For example, in the forestry sector, the Forest Act of 1993 and the Local Self-Governance Act of 1999 provide contradictory provisions about the allocation of powers and responsibilities between the central and local governments. The Forest Act empowers the Ministry of Forest and Soil Conservation to make policy on gravel, sand, and minerals inside forests, while the Local

Self-Governance Act vests the same power in local governments. Obviously such overlap creates jurisdictional disputes and uncertainty. As a further complication, provisions for community rights in the Forest Acts are undermined by manuals and guidelines prepared for the very purpose of implementing the law.

Another blockage to policy implementation is the lack of coordinated planning, infrastructure, and financing arrangements. For instance, a hydropower project requires physical infrastructure planning, compatible roads, a link to the transmission grid, and a power trading system. But these functions are neither part of an agreement with power developers, nor tied to any public investment. Likewise for successful implementation of an "education for all" policy, it is essential to have sufficient buildings, classrooms, and teachers, not to mention roads to support safe transportation to schools even during monsoon season. Yet no one is responsible for coordinating these activities.

Effective implementation requires adequate resources. For the most part, lab participants believe that for both hydropower and education, lack of money is not the problem. Some resources are

IF MONEY IS NOT THE PROBLEM, WHAT IS?

"When we have Initial Public Offerings (IPOs) of different financial institutions, they are forty times oversubscribed—so money is there. If people are certain that there will be a return on their investment, they will invest their money, but in hydropower there are lots of uncertainties, especially in a long gestation period, so money is not forthcoming. It is not just the hydro sector which is a problem. It is the wider context—it's the uncertainty and the lack of law and order."

"Education has seen the most investment since 1950, so money is clearly not the problem but the quality."

"We are paying Rs. 7 for one unit of power to foreign companies like Khimiti and Bhote Koshi, but for local companies, domestic producers, there is an unwillingness to pay Rs. 5. This is the crux of the problem: our politicians see a lot of money in giving business to foreign investors rather than developing our own capacities."

"In the 1970s we used to invest less than 7 percent of the national budget on education. Now we are spending 17 percent of the budget. . . . Around the 1970s we were spending Rs. 800 per primary school student in public schools; now we are spending Rs. 3000 per student in real terms. That's a quantum jump, yet we are not satisfied with the quality of education."

diverted by corruption, but mainly resource inadequacies are matters of perception, willingness to pay, and rising expectations.

Clearly, the matter of amassing financial resources for development is complex. Once again, the background context of political instability plays a role—investors need certainty and "law and order." In Nepal, as in all developing countries, the matter is complicated by dependence on foreign investments, loans, and donations. In the hydropower case, one of the biggest obstacles to building large projects is the need for foreign investment and therefore the de facto requirement to allow a foreign investor to draw most of the power from the project. In the case of education, Nepal depends on loans and donations not only for buildings, books, and teachers, but also for resources for basic development needs, including income security, public health, and roads.

REFLECTIONS ON THE EDUCATION CASE STUDY

The case study focused on the failure to implement Nepal's free education for all policy, but in the first lab discussion, participants kept returning to poor quality of education rather than lack of access. Eventually the case study author put the question bluntly:

"*The question is why over 10 percent of the children are still deprived of education after forty years of the concept of free education in Nepal?*"

"Gross enrollment rate is very high so almost every child is in school. But the drop ratio is high because parents feel that education is not relevant and quality is not good so they drop out."

"Our economy is very diverse. The families who depend on agriculture might be more interested in providing for their basic needs than sending children to school."

"The issue of dropout rates in schools is also related to other parallel issues like food scarcity, public health, and the employment situation of parents."

"Because of the government provision to have more women teachers in school, the number of girls attending school has increased. So maybe we need to have more teachers from different social communities so that they can motivate the children from those communities to attend school."

All these comments speak to what we might call weaknesses on the citizen demand side. No matter that government supplies schools, children must attend school and do homework, and parents must encourage (if not insist) that they go to school. Parents must also be aware of the entitlement to free public education and must understand the value of education to their children's (and Nepal's) future. In sum, we have identified three types of blockages to effective implementation: systemic problems

(instability, excessive centralization, and corruption), insufficient delineation of implementation responsibilities and guidelines, and weak citizen demand for and monitoring of programs promised in policy declarations.

Accountability

The concept of accountability is not much articulated in Nepal's popular discourse, either in the growing discussion of *rupantaran* (transformation) or in intellectual debate. A quick review of Nepali language print media indicates that there is no equivalent to the English term *accountability* or to the concept as it is used in Western discourse on democracy. This is not to say that the notion of accountability does not exist, but that it is perhaps difficult to gauge on a Western barometer. However, the Western concept has been disseminated and to some extent imposed by international donors with their "good governance" agenda, and indeed participants in our Policy Labs spoke repeatedly and passionately about accountability. If there is consensus on anything, it is that Nepal suffers from an accountability deficit.

If there is consensus on anything, it is that Nepal suffers from an accountability deficit.

We consider two kinds of blockages to accountability that we group as cultural and institutional. In drafting this report, we realized that the criteria in Chapter 2 are all institutional factors that in turn presuppose cultural factors. These cultural factors are taken for granted in Western democracies, but cannot be assumed in Nepal.

Several cultural codes affect the practice of accountability, especially kinship-based patronage (*afno manchhe*); loyalty-based distribution of positions and resources (the *chakari* system); and ethnocentrism, which privileges members of one's ethnic or caste group in all interactions, whether official or personal. There used to be a practice of accountability through a system of annual hiring, promoting, or firing of government officials (*pajani*), which compelled officials to remain loyal to the rulers through the *chakari* system. This conception of fairness that rewards personal relationships and loyalty is profoundly at odds with the liberal conception of fairness that undergirds the criterion of accountability for fairness. According to the liberal conception, fairness requires equal treatment of all citizens and adherence to

legal rules, even when the rules would not favor an official and his network. But we note that the liberal conception remains purer in theory than in practice. Loyalty to family and friends is a strong requirement of every moral philosophy, and people honor it in every society, even if perhaps not so openly.

WORK CULTURE AND ACCOUNTABILITY

"What we found in a study of the effectiveness of health sector reform measures was that all the volunteer-based vertical programs had been significantly contributing to the achievement of the progress in health. The outreach clinics and campaigns that are managed by local volunteers and mothers' groups are effectively working, but when it comes to the regular operations of the same sub health post, there are problems. In most of the cases, the key service health post does not show up, but his attendance is signed up by the management committee. But he cannot [be signed in] for the days when the outreach clinics are functioning because the general public present serve as a mechanism for accountability."

Certain aspects of traditional work culture hinder accountability, such as the tendency of some government officials to practice the *hata* system, which involves signing the attendance register and leaving. It entails spending time at work without working, or being absent from one's post altogether. The notion of putting in "face time" regardless of whether or not there is work to be done strikes many as pointless. Thus, an employee of the Nepal Electricity Authority suggested that "it is wrong to tighten attendance without giving adequate responsibility."[14] Jagir, the old royal patronage system of rewarding loyalty with land grants, also plays into contemporary work culture, along with the relationship-based cultural codes noted above. For many workers, once they get a job in government, they feel they have earned it and deserve to keep it for life, regardless of their performance.[15] They also believe that the *purpose* of a government job is to reward one's self and one's network with material resources and legal privileges, such as business licenses. To many, such self-aggrandizement is not considered wrong. Thus, there is a low level of support for holding government employees to account for anything, whether it is the quality of their job performance, their integrity in handling public funds, or their fidelity to the policies they are supposed to implement.

Not surprisingly, there is little *public awareness* about accountability. Citizens' groups have become increasingly aware of their political rights, but they are still not aware of their privileges vis-à-vis public institutions. There is no established tradition for formal and targeted questioning into the

actions of public officials and authorities. For example, there is little public awareness about the Right to Information Act 2007, and there are no organized groups to assert the rights it confers on individual citizens. More fundamentally, Nepal's popular political movements have always emanated from resistance to the unaccountable exercise of authority,[16] yet during each reform period, popular will has been insufficient to overcome the cultural traditions and establish durable institutions for accountability.

GETTING THE DATA

"We trusted local schools to bring all children in a locality to the school. But . . . they don't have a regular discussion system amongst the teachers. If they do that, we will have a proper record of children who are *in school* and *who are not* so that it becomes easier to take action."

"In one particular area in Bara, they claim that they have enrolled ten Dalit students and they have disbursed the money accordingly. But if you go and visit the school, there are no such students."

Among institutional factors that hinder accountability, the most important is the lack of mechanisms for monitoring and enforcement. Accurate and honest record-keeping—the basic element of transparency—is missing. Lower-level officials often fail to keep records, or, when they do, they often falsify data, not only about something like student school enrollment but also about their own attendance on the job. Transparency is also compromised by disguise. For example, in our case study of education, we found that students in government schools are often charged user fees in violation of the spirit, if not the policy, of free education. Schools have twenty-two headings that are not officially designated as fees, yet they are monies students must pay for specific services such as computers, sports, examinations, or school construction.

Several institutions are legally charged with monitoring government performance and holding officials accountable. In addition to the judiciary, the Commission on Investigation for the Abuse of Authority (CIAA) is mandated to investigate misconduct and corruption. There is also the National Vigilance Centre under the Prime Minister's Office; the Auditor General's Office, which reports to Parliament on the handling of public accounts by government agencies; and several parliamentary committees.

These institutions at times become enmeshed in politics and cannot carve out their independence from the executive agencies they are supposed to monitor. They have limited human resources and technical capacity to investigate and detect flaws. The CIAA is frequently stymied from taking action on public officials because its personnel are likely to be transferred if their investigative work threatens officials.[17] Likewise parliamentary committees fall prey to officials whose possibly corrupt behavior they want to probe. The same political officials who make policy also exercise influence on implementation. For instance, most licenses for hydropower projects are held by politicians—politicians who have the power to preempt monitoring and enforcement on the use of the licenses.[18] In short, the officials responsible for monitoring lack the critical independence from the people whose behavior they are supposed to monitor because they depend on these same people for their job security.

Because most of the political parties are involved in these mechanisms of corruption, there is no structural basis to challenge corruption. Yet despite these weaknesses of the formal accountability institutions, there are sporadic cases in which issues have been brought into courts and public debate. For example, the manager of Bagmati Oil Industries has been arrested and charged with fraud in Kathmandu district court for allegedly adulterating edible sunflower oil. The department of commerce has filed the case under the Consumer Act 2054 (BS). This is probably the first time a person has been sued for betraying consumers.[19]

ACCOUNTABLE TO WHOM?

"Most foreign aid is channelled to other sectors [than energy], whereas their [international donors'] reports state that lack of energy is one of the main binding constraints in development."

"What is stopping local governments from formulating and owning their own development plans? Is it too strong a donor guidance? Is it too strong central government directives that keep them in shackles? What are pre-conditions that encourage local bodies to formulate their own policies?"

Finally, there is the question of "accountable to whom?" Because Nepal is so heavily dependent on foreign aid (about 5–6 percent of GDP, 25 percent of total expenditure, and more than 55 percent of capital expenditure[20]), lines of accountability become blurred and run in different

directions. As a recipient government, Nepal's agencies and officials are often more accountable to donors and lenders than to their own citizens in order to keep the money flowing.[21] Donors set their own priorities and fund what they want, rather than taking policy direction from domestic, democratically elected institutions.

Many people believe that local governments, though they are the least powerful and most resource-poor units of governance, hold the most promise for strengthening government accountability. Lab participants connected Nepal's accountability problems back to insufficient electoral representation and local democracy.

THE LOCAL LEVEL HOLDS MORE PROMISE FOR ACCOUNTABILITY

"There is a breakdown of political norms. . . . If you go to the basic community level, cooperation and work is carried out more smoothly because differences (especially political) are diffused at the community level. Local norms are not broken down, but at the supra-level there is no law and order."

"If we see the recent committee elections of Nepali Congress, those who were elected were local contractors who were conniving with the politicians in local areas to make money, rather than substantive local representatives who had been working over the years. Local bodies have become a mechanism to mobilize resources. If resources come from the top then politicians would divide it amongst themselves, but if resources are generated from below there is always some mechanism of accountability."

"What happens is everything is top-down. The desire for [a development] plan should come locally instead of a World Bank hand-me-down plan.

"When the government provides money to schools for the purpose of free education, the school managing committee uses it according to their discretion, sometimes for construction purposes and for teachers' salary. Therefore, the government should not be providing scholarship amounts to [the] school but should provide direct support to the parents and have compulsory law from the local community; put the money in the hands of the users and give them the purchasing power for education."

Appendix 1 : The Research Team

- Prof. Deborah Stone, Ph.D. in political science, M.I.T.; Research Professor of Government, Dartmouth College, U.S. and Honorary Professor of Government, Aarhus University, Denmark.
- Mr. Jorrit de Jong teaches Public Policy and Management at Harvard University. He is a senior fellow at the Ash Center for Democratic Governance and Innovation at Harvard's Kennedy School of Government.
- Mr. Mohan Das Manandhar, M.B.A., International University of Japan, Japan; Executive Director of Niti Foundation.
- Dr. Hemant Ojha, Ph.D. in political science, University of East Anglia, U.K.
- Dr. Hari Dhungana, Ph.D. in international development, University of East Anglia, U.K.
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Appendix 2 : List of Expert Informants

	Name	Organization
1	Mr. Ajay Ghimire	CEO, Vibor Bikas Bank
2	Mr. Bihari Krishna Shrestha	Anthropologist, Former Joint Secretary, Government of Nepal
3	Mr. Hari Sharma	Director, Alliance for Social Dialogue / Social Science Baha
4	Mr. Sushil Pyakurel	Former Commissioner, National Human Rights Commission
5	Dr. Keshav Kanel	Former Secretary, Government of Nepal
6	Dr. Sagar Prasai	Deputy Country Representative, The Asia Foundation
7	Dr. Dwarika Nath Dhungel	Former Secretary, Government of Nepal
8	Mr. Dev Raj Dahal	Head, Friedrich-Ebert-Stiftung (FES), Nepal
9	Mr. Madhav Prasad Ghimire	Chief Secretary, Government of Nepal
10	Ms. Durga Sob	Chairperson, Feminist Dalit Organization Nepal
11	Mr. Bijaya Bahadur Rajbhandary	Executive Chairman, CE Group
12	Dr. George Varughese	Country Representative, The Asia Foundation

Appendix 3 : List of Policy Lab Participants

	Name	Position
1.	Ms. Ambica Shrestha	President, Federation of Business & Professional Women Nepal (FBPWN)
2.	Mr. Anil Kumar Jha	Secretary, Sadbhavana Party
3.	Mr. Ajay Ghimire	C.E.O., Vibor Bank
4.	Mr. Bihari Krishna Shrestha	Anthropologist; Former Joint Secretary, Government of Nepal
5.	Dr. Bidhya Nath Koirala	Professor, Central Department of Education, Tribhuvan University
6.	Mr. Bidhyadhar Malik	Former Secretary, Government of Nepal
7.	Dr. Bal Gopal Vaidya	Chairman, New ERA
8.	Mr. Posh Raj Pandey	Former Member, National Planning Commission
9.	Dr. Saroj Dhital	Founder, Public Health Concern Trust Nepal
10.	Mr. Arun Pant	Executive Director, Design Cell, Nepal
11.	Mr. Raghav Regmi	Consultant, Development Consultancy Centre, Nepal
12.	Mr. Hari Sharma	Director, Alliance for Social Dialogue/Social Science Baha
13.	Mr. Nirjan Rai	Program Officer, The Asia Foundation
14.	Dr. Keshab Man Shakya	Chairperson, Nepa: Rastriya Party
15.	Mr. Sushil Pyakurel	Former Commissioner, National Human Rights Commission
16.	Dr. Keshav Kanel	Former Secretary, Government of Nepal
17.	Mr. Yubaraj Ghimire	Former Editor, Kantipur Publications; Editor, Bhrikuti Publication
18.	Dr. Narayan Manandhar	Expert, Anti-Corruption
19.	Dr. Sagar Prasai	Deputy Country Representative, The Asia Foundation
20.	Mr. Binod Bhattarai	Communication Expert
21.	Mr. Dipak Gyawali	Former Minister, Ministry of Water Resources, Nepal
22.	Dr. Dwarika Nath Dhungel	Former Secretary, Government of Nepal
23.	Mr. Govinda Das Shrestha	Former Joint Secretary, Government of Nepal
24.	Mr. Ratna Sansar Shrestha	Expert, Hydropower Development
25.	Mr. Dev Raj Dahal	Head, Friedrich-Ebert-Stiftung (FES), Nepal
26.	Mr. Kanak Mani Dixit	Editor and Publisher, Himal Southasian

Annex 1 : Collaborative Inquiry Through Policy Labs

The Policy Labs provided another way to gather data and generate ideas in addition to our individual interviews, literature review, and case studies. However, we conceived the labs as more than simply another research method.

The ultimate goal of this project—and of Niti Foundation—is to improve policymaking by involving stakeholders in constructive dialogue to diagnose problems and identify solutions. Thus, we used the labs not only to gather data in the traditional sense, but also to experiment with deliberative processes that could potentially escape or overcome some of the dysfunctional patterns and blockages in existing policymaking.

Action Research Paradigm

We designed the Policy Labs specifically for Niti, but they are not a new form of research. We adapted and customized the labs from several forms of collaborative inquiry.[22] Collaborative inquiry is deeply rooted in the action research paradigm.[23] As part of a long and rich tradition of social research, the action research paradigm can be characterized by the following principles:

- Action research is rigorously empirical: it does not reduce complex practices to simplified data, but tries to capture the richness and multidimensionality of social phenomena through a variety of qualitative methods.

- Action research is deliberately "democratic": it does not pretend that scientific research is neutral process, nor that social phenomena can be interpreted without bias. It acknowledges the diversity of values, interests, opinions of those involved in a social system and uses that diversity as data to better understand the phenomenon.

- Action research is necessarily (quasi) experimental: it does not impose a pre-structured research design on a phenomenon. It is responsive to practice and engages the social system it studies in the process of inquiry. Through rigorous and transparent procedures of action and reflection, action research actively seeks disconfirming evidence for findings in earlier cycles, while fine-tuning the research design for later cycles of research.

Finally, action research emphasizes the benefits of proximity to the phenomenon and de-emphasizes the value and the possibility of complete objectivity. As Stringer writes, "Action research . . . is based on the proposition that generalized solutions may not fit particular contexts or groups of people and that the purpose of inquiry is to find an appropriate solution for the particular dynamics at work in a local situation."[24] The virtue of action research is its responsiveness. It is what allows you to turn unpromising beginnings into effective endings. It is what allows you to improve both action and research outcomes through a process of iteration.

As forms of collaborative inquiry, the Policy Labs were designed to be responsive to the heterogeneous phenomena we investigated as well as to the diversity of the participants in the meetings. Policy Labs help create mutual understanding, rather than objective knowledge.[25] The content of the discussions is important data, but the process (e.g., how things are said, what things are not said, and how people interact) provides equally important information.[26] Chapter 3 details the substantive ideas that emerged from our research, primarily the labs but also the other methods. In this chapter, we provide a framework that might help to conceive Niti's future use of the method in Nepal.

The Policy Labs were designed to be responsive to the heterogeneous phenomena we investigated as well as to the diversity of the participants in the meetings.

Purposes of Policy Labs

One way to think about the labs is to see them as focus groups whose purpose is to generate deeper insight into the mechanisms that impede effective social problem solving. The outcomes, as reported in Chapter 3, were diagnoses of social problems and the weakness or failure of the policies that are supposed to address them. We used three cases of policies that have allegedly been failing (hydropower energy policy, universal primary education, and the lack of inclusive and effective local governance). In each lab we examined two of the three cases and asked the participants through carefully crafted questions about the factors that, according to them, explained the status quo. We then inquired about solutions. After that we moved up one level in abstraction and asked participants if they saw any parallels between the two cases in terms of our main themes: representation, implementation, and accountability. In other words, we used the cases as an entry point into the discussion about generic issues of policymaking. The advantage of this approach was that we established a concrete point of reference early in the discussion. This helped the group to stay focused. Because the cases were carefully researched and the researchers were present, participants were kept close to the task. By using a structured format, real life cases, pointed questions, and the social dynamics in the room, we created what Harvard leadership scholar Ronald Heifetz has called a "holding environment": a time-space where people are forced to respond to a certain challenge that they cannot easily walk away from.[27] One such holding environment conducted in Kathmandu produced a wide variety of insights.

Finally, and perhaps most importantly, the labs were intended as an opportunity to gain insight into how policy actors think, talk, and interact by observing them as they discuss policy problems and attempt to come up with constructive solutions. We wondered: In what terms do they describe problems? What is the nature of the solutions they propose? What do they take for granted, and what assumptions do they share? What do they disagree about, and why?

The labs were intended as an opportunity to gain insight into how policy actors think, talk, and interact by observing them as they discuss policy problems and attempt to come up with constructive solutions.

Niti Policy Labs in the Future

The format for the Policy Labs was tailored to the mission and desired role of Niti Foundation, the Nepali context, and this specific research project. As such, it was an experiment. What we have learned is that the labs indeed produce meaningful outcomes, that the participants appreciated the format, and that as a team we were able to make sense of the outcomes. However, we can increase the likelihood of successful sessions and useful outcomes by identifying some variables that seemed particularly critical in the sessions we ran in Kathmandu. If collaborative inquiry is to be used in the future to convene policy actors around certain topics, it is important to be aware of design variables and the consequences of design choices. That way Policy Labs can be turned into an effective, more specific *modus operandi* for Niti. To that end, we elaborate some variables of a lab with regard to the following possible goals:

1. setting agendas and formulating problems

2. diagnosing policy failure and bureaucratic dysfunction

3. mobilizing actors to reach consensus and build coalitions for policy change

The matrix on the next page displays the variables that Mr. de Jong has found to be most important in preparing, structuring, moderating and processing the outcomes of collaborative inquiry. These variables, as well as the three types of labs we have tentatively identified, might help Niti to prepare effective policy labs in the future.

In retrospect, the Policy Labs were very rich, but possibly *too rich*. So much was said and shared in a limited period of time, and so many different points of view from so many interesting and knowledgeable participants were expressed. Our format served the purpose of our research project (exploration, deliberation, mobilization, brainstorming, etc.), but in the future it might be wise to separate some of the functions of a lab.[28] That would ensure more careful deliberation, more thorough analysis, and more accountable commitment to future actions.

Critical Variables for Policy Labs

Goals	***Agenda Setting – Nominating Problems***	***Diagnosis of Success or Failure in Policy***	***Coalition Building for Concerted Action***
Role of Lab	Convening to converge actors and agendas	Discussing to disentangle wicked political problems	Mobilizing to maintain momentum for action
Group Composition	Diversity at least in terms of institutional representation	Diversity at least in terms of professional orientation and institutional relation to problem	Diversity at least in terms of sources of authority and way people are affected by a problem
Nature of Topic	One broad issue – e.g., health care, local governance, or education	One specific issue – e.g., parental care in rural areas or kids dropping out of free public schools	One shared ambition – e.g., increasing hydropower capacity, reducing child mortality, etc
Content of Discussion	Any data that exemplify discontent with status quo	Emblematic, rich, factual case-studies of social problems; simulations	Corroborated case-studies and stats, policy ideas, role-playing
Format for Discussion	Round table discussion followed by clustering and reframing of issues, working towards a common language or framework	Thorough analysis of a concrete case, eliciting multiple perspectives, followed by discussion of implications for all actors in the policy process	Critical discussion of the general idea (pros, cons, risks, opportunities) followed by identification of concrete steps forward owned by policy actors
Nature of Moderation	Establishing a community of interests, restructuring the policy arena	Confronting participants with blind spots – keeping them close to the task	Establishing common interests; creating commitment and accountability for follow up
Input – Written Materials	E.g., newspaper articles, watchdog reports, government stats	E.g., description of the drop-out problem in a typical public school	E.g., proposal for a campaign to eliminate illiteracy
Output – Concrete Results	New formulation of issues to work on collaboratively	Shared understanding of the full nature and extent of the problem	Agreement to actions focused on moving a policy proposal ahead
Communication – Management of Expectations	Respectful deliberation: listen actively, talk freely, help make sense	Productive anxiety: be prepared to confront and be confronted	Dynamics of commitment: own an action and make yourself accountable

Endnotes

1. During the preparation of this report, all the political parties, members of civil society, researchers, experts, and citizens at large were intensely engaged in designing a new constitution for Nepal. Unfortunately, after four years of persistent engagement in drafting a new constitution, the Constituent Assembly was dissolved on May 28, 2012 without promulgating a new constitution.

2. Nepali discourse tends to use the term "social inclusion" rather than representation, but the concern with "social exclusion" and "marginalization" corresponds to the notion of representation and democratic theory, and we think the broader term is useful.

3. Michael Hill and Peter Hupe, *Implementing Public Policy* (Thousand Oaks, California: Sage Publications, 2nd ed., 2009).

4. No rule can be so precise that it covers all situations; discretion is an inescapable feature of policy implementation.

5. Mark Bovens, Thomas Schillemans, and Paul 'T Hart, "Does Public Accountability Work? An Assessment Tool," *Public Administration*, vol. 86, no. 1 (2008), pp. 225-242.

6. Paraphrased from ibid, p. 225.

7. Ruth W. Grant and Robert O. Keohane, "Accountability and Abuses of Power in World Politics," *American Political Science Review*, vol. 99, no. 1 (2005), pp. 29-43.

8. We borrow three ideas from Robert D. Behn, *Rethinking Democratic Accountability* (Washington, D.C.: Brookings Institution, 2001).

9. See Bovens et al., op. cit. note 5.

10. Based on Deborah Stone, "Kathmandu's Garbage Problem," unpublished case study for Niti Foundation, November 2010.

11. Marshall Ganz, "Voters in the Crosshairs," *American Prospect*, November 30, 2002.

12. Dev Raj Dahal, "Reflection on Policy Culture in Nepal," 2010.

13. See Transparency International (2009), Corruption Perceptions Index 2009, on the site http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table; and Transparency International (2010), Corruption Perceptions Index 2010, on the site http://www.transparency.org/

14. "Hastachep le pradhikaran dharasahi," *Kantipur*, November 2, 2010.

15. Sujeev Shakya, *Unleashing Nepal: Past, Present, and Future of the Economy*, (Delhi: Penguin Books, 2009), pp. 64-65.

16. This began with the Nepali Congress Party's declaration in 1950 on the eve of revolution, issued by B.P. Koirala, stating that the party wanted to establish an accountable government in Nepal.

17. HB Thapa, "Niriha aujar bandaicha akhtiyar," *Kantipur*, November 2, 2010.

18. Policy Lab participant.

19. "Pahilopalta Jail," *Nepal*, Bhadau 20, 2067 BS (September 5, 2010).

20. Madan Kumar Dahal, "Foreign Aid in Nepal: The changing context," accessed July 27, 2012 from http://www.aidmonitor.org.np/inner.php?do=views_detail&id=169.

21. This theme was prominent in our interviews and the labs, as well as in the international relations and development literature. See Ruth W. Grant and Robert O. Keohane, "Accountability and Abuses of Power in World Politics," *American Political Science Review*, vol. 99, no. 1 (2005), pp. 29-43.

22. John N. Bray, *Collaborative Inquiry in Practice: Action, Reflection, and Making Meaning* (Thousand Oaks, California: Sage Publications, 2000).

23. Peter Reason and Hilary Bradbury, *The Sage Handbook of Action Research: Participative Inquiry and Practice* (Thousand Oaks, California: Sage Publications, 2nd ed., 2008);
Davydd J.Greenwood and Morten Levin, *Introduction to Action Research: Social Research for Social Change* (Thousand Oaks, California: Sage Publications, 2nd ed., 2007);
Ernest T. Stringer, *Action Research* (Thousand Oaks, California.: Sage Publications, 3rd ed., 2007);
Bob Dick, *What is Action Research?*, cited January 21, 2012 from http://www.scu.edu.au/schools/gcm/ar/whatisar.html, 1999;
Allan Feldman, "Erzberger's Dilemma: Validity in action research and science teachers' need to know" (Amherst: University of Massachusetts Amherst, 1994);
Kathryn Herr and Gary L. Anderson, *The Action Research Dissertation: A Guide for Students and Faculty* (Thousand Oaks, California: Sage Publications, 2005).

24. Ernest T. Stringer, *Action Research* (Thousand Oaks, California: Sage Publications, 3rd ed., 2007).

25. Ernest T. Stringer, *Action Research* (Thousand Oaks, California: Sage Publications, 3rd ed., 2007); and
Davydd J.Greenwood and Morten Levin, *Introduction to Action Research: Social Research for Social Change* (Thousand Oaks, California: Sage Publications, 2nd ed., 2007).

26. There is a third category of data conceivable: a new form of reflective consciousness. If a policy lab worked as a good deliberative process, then we should have also seen the third form of research outcome, a new level of consciousness/mutual understanding, which is not directly possible through other modes of extractive research. We are not sure whether we achieved that level of deliberative quality in the labs we conducted. Therefore we will concentrate on the first two kinds of data, keeping in mind that in the future we might want to pay more attention to the third.

27. Ronald A. Heifetz, Marty Linsky, and Alexander Grashow, *The Practice of Adaptive Leadership: Tools and Tactics for Changing Your Organization and the World* (Boston: Harvard Business Press 2009).

28. Moreover, policy labs could be seen as part of longer process of policy development and implementation. Here we need more thinking and experience on how different types of policy labs fit with different types of policy problems (e.g., the difference between state restructuring and maternity service), with a different configuration of actors and facilitating agency (some sectors have a rich variety of grounded scholar-activists to facilitate policy deliberation while others do not).

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