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Mega-Project Development, Contentious Action, and the Politics of Policy Implementation

Eduardo Silva and Stefanie Israel de Souza



Center for Inter-American Policy & Research

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Eduardo Silva and Stefanie Israel de Souza
Tulane University

Introduction

Since the 1990s, the proliferation of mega-development projects has triggered determined resistance by local communities, social movements, and civil society organizations more generally threatened by them. The sharp rise of protest in response to mega-project development was especially acute in Latin America (Arsel, Hogenboom, and Pellegrini 2016; Bebbington et al. 2008). Much of the research on the phenomena focused on local resistance movements and whether they stopped the project, or the effectiveness of community consultation and compensation mechanisms (Falleti and Riofrancos 2017; Humphreys Bebbington 2012; Pellegrini and Ribera Arismendi 2012; Schilling-Vacaflor and Flemmer 2015; Walter and Urkidi 2017). The focus on the local generated important, but under-researched, questions on the policy impacts of social mobilization. What, if any, consequences did the proliferation of resistance to mega-development projects have on national-level policies and broader political/institutional change? Recent work on these issues raised further questions (Silva, Akchurin, and Bebbington 2018). Where policy responses emerged, what, if any, role do social movements and contentious action play in the politics of policy implementation? The question is particularly relevant given an acknowledged “implementation gap” in the region (Brinks, Levitsky, and Murillo 2020).

Although the end of the commodity boom in the mid-2010s put some extractive projects on hold, contentious action around established, new, and exploratory projects persists. Proponents of traditional extractive development are poised to strike back. Thus, the questions we address remain urgent, all the more so given the intertwining of extractive development and climate change (Pellegrini et al. 2021).

Our papers contribute to the literature on the policy, institutional, and broader political consequences of social movement contentious action. The literature tends to be social movement centric, assessing influence as positive when political outcomes incorporate social movement demands and negative when they do not. The literature has established a wide range of impacts ranging from high impact when policies mirror movement demands closely, to mixed when some demands are partially incorporated. Often, social movements have little to no impact on policy or assessing broader political impacts can be difficult. Sometimes only symbolic effects accrue. Bottom line, what counts as a policy or institutional impact, or broader political/institutional change, is a complex and multi-dimensional question.

To explain this diversity of outcomes, the literature on the policy/political outcomes of social movements has drawn on political opportunity and threat frameworks as well as direct, mediated, and indirect effects explanatory models. These approaches model how political structures affect the context in which movements with varying

¹ We would like to thank Lorenzo Pellegrini for his feedback on an early draft of this paper.

resources, strategies and tactics attempt to influence policy and broader political change. Shifts in political opportunities and/or threats may affect a social movement's prospects for influencing change. Direct effect models refer to substantial movement participation in crafting policy (Gamson 1975). This is rare. Mediated effects involve movements working with political allies to shape policy; much depends on assessing how involved social movement activists were (Amenta, Caren, and Olaska 2005; Andrews 2001). A joint effects model combines mediation with the pressure of public opinion to convince policymakers to act on movement policy preferences (Giugni 1998).

Most of the literature agrees that if social movements have any effects at all, it is strongest in policy agenda setting and, to a lesser extent, in policy formulation. But what happens afterwards, during policy implementation? The social movement literature has mostly overlooked this critical if understudied phase in policy-making. A series of workshops by our Research Group MEGA at The Center for Inter-American Policy and Research at Tulane University identified a number of critical questions.² Which institutions are central to the politics of policy implementation? What strategies do activists and political elites use to close implementation gaps when policies to mitigate risks are put in place? What strategies do activists, politicians, and business elites use to delay or block the implementation of undesirable policies? What is the role of courts in the politics of implementation, and how do activists, state agencies, and extractive corporations use them? What is the role of expert knowledge at the implementation stage? Do the politics of influencing private regulation differ from those of government? The implementation gap is problematic in Latin America – why does it exist and what can be done about it? A broad question that emerged from our discussion was whether the politics of implementation differed from those of policy formulation in terms of the institutions involved and the formation of supporting or opposing coalitions.

This Special Issue addresses these questions. We situate ourselves in an emerging literature on the politics of policy implementation. We work within a combination of comparative political economy and contentious politics framework that strengthens analysis of the power relationship between social movement organizations and the context in which they act. We show that the politics of implementation differ from the politics of policy formulation in important ways. We distinguish between social movement impacts in the politics of implementation depending on whether policies further or frustrate movement objectives.

The Politics of Implementation

Current literature on policy implementation has concluded that the well-known stages model of the policy process is limited and should be treated, at best, as a heuristic to thinking about the policy process. Those early works analyzed policy implementation as a distinct stage of the policy process and concerned themselves with identifying why policy fell short of stated objectives. In a “top down” approach, it examined the state/government organizations, rules, and procedures established to carry out stated policy objectives. It was very much a public administration approach. Its focus on technical and coordination problems avoided politics entirely. Strictly isolating the stage detracted attention for broader questions of policy change (de Leon and de Leon 2002;

² Anthony Bebbington was particularly helpful in identifying these crucial research questions.

Jann and Wegrich 2007). It is now understood that implementation links backward to policy formulation and forward to policy evaluation (Barnes, van Laerhoven, and Driessen 2016; de Leon and de Leon 2002; Jann and Wegrich 2007; O'Toole 2000). The challenge while focusing on implementation is to clarify the linkages between them. Moreover, implementation should be analyzed in relation to broader processes of policy change.

This literature stresses that policy implementation involves politics too, meaning that it is a contested field involving actors with distinctive preferences, institutions, coalitions, networks, values, symbols, among other factors (Barnes et al. 2016; Hupe and Hill 2016). This perspective recognizes that the direction of policy change varies and that how actors position themselves in relation to that change matters for implementation.³ Thus, one can, and should, research how *opposition* to implementation affects outcomes (Jann and Wegrich 2007).

Our proposed Special Issue contributes to the study of the *politics of policy implementation* within the broader issue of the policy and political consequences of contentious action against mega development projects (Silva, Akchurin, and Bebbington 2018). We do so with a focus on the question of policy change. Although often the direction of policy change may not necessarily be positive – the problem of rollback – we do find instances where policy gradually advances toward more favorable outcomes, or that at least offers the chance of doing so. There are also instances of holding the line against pushback in less favorable directions. Thus, we include cases where social movements mobilize for policy implementation as part of their strategies of support for positive policymaking, as well as cases of resistance to implementation –fitting in broader oppositional strategies to policy rollback.

We examine how the politics of policy implementation links backwards to policy formulation and forwards to feedback effects after a period of implementation. We find that institutional differences in the stages affect the politics and strategies of social movement organizations. In a key contribution of the papers in this collection, we highlight that once a policy is official, bureaucracies and the judiciary emerge as arenas of struggle, affecting contending actors and potential coalitions. Thus, we conclude that the politics of implementation are somewhat different from the politics of policy formulation that generally involve legislatures, political parties, and executive branches of government. The importance of regulations and courts also elevates the weight of expert knowledge in the politics of implementation compared to earlier stages of the policy process. These findings surmount a tendency in the literature to narrowly focus on the emergence of “novel” institutions and processes, such as the judicialization of socio-environmental conflict or the role of expert knowledge. We understand these newer phenomena as features of the politics of the policy process as a whole. While they are distinct, what occurred during previous stages affects them. Regarding the politics of influencing private regulation, we find it differs from those of government in that movement organizations may find it easier under certain conditions to target them and obtain favorable results in strengthening implementation of corporate social responsibility practices than attempting to prod government action.

Our framework focuses on how contending actors take position in relation to the direction of policy change. Given the tenor of our times, many of our articles analyze

³ Sabatier (1986), in his way, works with this.

how *opposition* to unfavorable implementation affects outcomes. Opposition becomes a movement strategy/tactic to alter implementation outcomes of an unfavorable policy. This often ties into efforts to reform said policy in more favorable directions, a fact that emerges as a central theme in the politics of policy rollback. Delaying tactics slow down implementation and buy time in the hopes of more favorable circumstances in the future.

On a more general level, we contribute to debates over the relationship between context and social movement centric factors in the explanation of outcomes, such as organization, resources, strategies, and tactics. We argue that a comparative political economy approach helps to systematize many of the factors that appear more episodically in the political opportunity structure framework.

Andrews (2001) usefully distinguished between systemic, intermediate, and short-term factors that affect what movements do and the effects they may have. Comparative political economy facilitates the specification political, economic, and social conditions at all three levels, the actors and interests involved, and their relative sources of power. The latter is particularly significant. From this perspective, power is considered to be relative, the power of one actor depends on the power of the opponent. This is important for understanding leverage points. It also requires one to theorize about sources of power. We concentrate on Lukes' (2005) three faces of power: decision-making power (ability to impose a decision), agenda setting power (particularly ability to keep problems off of an agenda), and ideological power. Because social movements often form coalitions, it is useful to consider "associational power" (coalitions among organizations in a similar issue area, building organization in an issue area) and "collective power" (what Almeida [2005] has called multi-sector coalitions) – coalitions among organizations across sectors (see Silver 2003).

In sum, we offer a different perspective compared to "implementation theorists" because we focus on the role/impact/consequences of social movement action in the politics of implementation processes rather than theorizing those processes per se. Thus, we go beyond the literature that emphasizes how social movement organizations may help to bring implementation of favorable policy to fuller fruition. We contribute to approaches that think of the politics of policymaking as a field with "early policymaking" problems (agenda setting, formulation, promulgation) and with "late policymaking problems" (implementation, feedback, reform/adaption). All involve politics. Actors attempt to influence those politics: how to get authorities to have rules, regulations, and institutions that will aid in securing their objectives and hinder others from achieving theirs. We contribute by focusing on how social movements – in contention and/or coalition with private sector actors, political elites, and state actors – engage in struggles over implementation. We analyze those struggles from a comparative political economy perspective.

Articles in the Special Issue and their Contributions

As a collection, the articles in this special issue contribute to our understanding of the politics of policy implementation in several ways. First, they further our understanding of the implementation gap and efforts to close it in Latin American contexts. Second, they expand our understanding of the politics of implementation by

noting which institutions are central. In particular, they highlight the centrality of the courts, regulatory institutions, and bureaucratic agencies. Third, they detail different strategies activists employ to varying degrees of success. They show how activists, bureaucrats, and private corporations alike engage relevant institutions not only to enforce implementation of desired policies, but also to delay implementation of undesirable policies. They also shed light on the utilization of expert knowledge in these struggles. Finally, these articles enhance our understanding of how political economic context shapes the politics of implementation in different settings. They suggest that it is important for activists to be attuned to leverage points specific to their political systems.

At times, social movement groups may mobilize to deter the implementation of policies they oppose. Which strategies do activists employ with some degree of success? Spalding analyzes how anti-mining activists in Guatemala acted to delay and obstruct the implementation of undesirable policies. She finds that the most successful strategy employed by activists at the implementation stage was their use of the courts. This strategic engagement of the courts was successful in delaying the development of mining twice. Spalding closes by reflecting on what is to be gained by using a court strategy, and what the limits of such a strategy are.

Focusing on mining cases in the Atacama Desert in Northern Chile, Akchurin shows how Chilean environmental courts have become central in the politics of implementation pertaining to issues of environmental justice. These specialized administrative courts, established less than a decade ago, form part of a growing environmental bureaucracy responsible for regulating extractive industries. How do affected communities, state agencies, and mining companies use environmental courts, and with what consequences for the implementation of environmental policy? Complaints and lawsuits brought to these courts expose gaps between environmental laws and actual practices, making visible problems the state is obligated to address, and influencing the implementation of environmental regulations. Akchurin shows how affected communities use these courts to indirectly pressure mining companies into environmental compliance, how state agencies use the courts in public interest litigation, and how mining companies use the courts to contest decisions they deem unfavorable. In short, these courts have become a key arena of contestation with important consequences for how environmental policies are implemented.

Arce and Awapara analyze the Peruvian case to ask, how and when are national governments likely to fund programs to close development gaps? Although the Amazonian region is an area with a long history of conflict, having suffered forty years of oil spills and two hundred years of neglect, it is only recently that the government released money for districts with close proximity to oil areas. Arce and Awapara note an increase in protests and judicialization moved policy makers closer to the implementation of this program. Challengers also leveraged their alliances with transnational environmental networks as well as the presence of competing interests within the state. The authors suggest that both the state and private companies realized it was too expensive to continue temporary, piecemeal solutions. Thus the implementation of a new broad public goods program is an important departure from existing government practices on extractive areas.

Turning back to Chile, Silva analyzes the politics of implementation surrounding the system of environmental reporting (SEIA) over a twenty-five year period. Where

does the politics of policy implementation unfold, and which institutions and actors are central? Silva argues that while the executive and legal branch are central to the politics of policy formulation, regulatory and judicial institutions are integral to the politics of policy implementation. He shows how both social movements and their political allies as well as business organizations use these political institutions to delay projects. When a bill was introduced to reform the SEIA, struggle returned to the legislative arena and the presidency. Since the SEIA initially favored business interests and the reform bill under consideration was even more business-friendly, reaching a stalemate in the reform process might be considered a victory for environmentalists. Silva's findings suggest that social movement organizations would benefit from being attuned to their political systems and understanding where the levers are at different points in the policy process.

Often, there may be a delay between activists' success of influencing policy on paper and the implementation of that policy. What role do political elites play in closing the implementation gap? Feoli examines how the anti-dam movement in Costa Rica helped generate a new policy vision that was only enacted a decade later due to pressure from political elites. Anti-dam activists were active in challenging the Instituto Costarricense de Electricidad (ICE) and documenting social and environmental impacts and were involved in articulating a new policy vision. However, due to its relative autonomy, ICE was able to ignore that policy document. Years later political elites affiliated with the new Citizen Action Party, who benefitted from the frame promoted by anti-dam activists, were able to pressure ICE to comply with the policy. Feoli's analysis highlights the role of political elites and bureaucrats in influencing implementation processes and in closing the implementation gap.

Not only does political economic context matter for shaping which strategies social movement groups may use to influence policy implementation, but it also affects if and when they can influence implementation at all. Arsel and Pellegrini examine the experience of Ecuador under Correa as a clear case of transformative policymaking followed by a lack of implementation. Although Correa depended on support from indigenous communities, environmentalists, and other progressives to get elected, social movements faced increased repression during his presidency. In their analysis, Arsel and Pellegrini argue that an extractive imperative was at the root of the conflict between Correa and progressives. Correa depended on revenue from intensified oil extraction and large-scale mining operations in order to finance his post-neoliberal development project that would address socio-economic inequalities in the short term and enable a move away from extractives to more sustainable industries in the long term. The Correa government's authoritarian turn closed the window of opportunity for social movements to influence policy implementation, regardless of their strategies.

While most social movement scholarship focuses on the state as a target of contentious politics, Godfrid and Haslam consider whether and how mobilization affects corporate social responsibility (CSR) policies and practices. They argue that CSR practices are in many ways akin to implementation practices by public agencies, but activists often target firms because it is easier to get results. Drawing on a comparative case study of the influence of activists on the CSR policy and practice of the Canadian multinational mining company, Barrick Gold, in Argentina and Chile, Godfrid and Haslam show that mobilization can influence the implementation of CSR policy via processes internal and external to the firm. Actors within the firm must work to translate

local social movement demands into activities that fit headquarters CSR policy. Social mobilization not only exerts pressure directly on the firm, but it also transforms the broader organizational field by causing other key actors such as the state and regulatory agencies to re-evaluate and adjust their positions in relation to the firm. They also find that citizens and activists who were initially unprepared to contest an environmental impact assessment were, four years later, able to effectively utilize expert knowledge to force the implementing agency to be more critical of the company. Godfrid and Haslam's findings highlight alternative mobilization strategies that may yield public goods benefits even in contexts where mobilization targeting the state may not be effective.

Conclusions and Directions for Research on the Politics of Policy Implementation

Given the widely acknowledged and problematic implementation gap in Latin American contexts, it is surprising that more work has not addressed efforts by social movements to influence implementation processes. This collection of papers contributes to a better conceptualization of what we call the politics of policy implementation. Each paper adds to our understanding of where the politics of policy implementation unfolds, which actors and institutions are central, which strategies activists and opponents have used, and to what ends. This framework provides a means to assess social movement influence beyond policy formulation. It bridges into discussions of when and how social movement and civil society actors can most effectively further their objectives at the implementation stage, whether that means pushing for the implementation of desired policies or blocking or delaying the implementation of unfavorable policies.

As distinct from policy formulation, the politics of policy implementation differ in the institutional settings of contentious action.⁴ Instead of legislatures and high executive branch offices, they involve regulatory agencies and the judiciary. As a result, expert knowledge and legal acumen are essential for the deployment of "insider" tactics, frequently in combination with more transgressive and disruptive contentious action in tandem with efforts to sway public opinion, which is common to the politics of policy formulation. The coalitions engaged in contentious action are similar to those of the policy formulation stage in that they variously involve national and transnational social movement organizations, local communities, civil society organizations, state institutions, and business actors. What is different is that they are first focused on influencing regulatory agencies, then on pressuring presidencies and ministries to instruct regulators, then on using courts, legislative allies, and public opinion to force high level government officials to instruct regulatory agencies to address social movement demands. Thus, the politics of policy implementation involves forging tight bonds with networks of mid-level state agency leadership, such as technical agency heads and specialized staff. Influencing private regulation was even more complicated for social movements; they struggle on two fronts. One involves the effort to influence corporate behavior. The other focuses on convincing relevant state actors to help them pressure private sector actors.

While some of this is similar to what is described by Sabatier (1986) in his advocacy coalition framework, what is noteworthy in the Latin American cases, is the difficulty of confining the regulatory policy struggle to strict policy domains and their respective

⁴ We would like to thank Anthony Bebbington for his help in identifying research questions relevant to the study of the politics of policy implementation.

specialized regulatory agencies. The same applies to the actors involved. The politics of implementation in our cases quickly spills out from regulatory agencies and the institutional, civil society, and business actors directly involved to ministerial, legislative, and presidential office holders. It is also clear that political economy defines much of the context in which the politics of implementation unfold; it shapes key actors, their interests, and power resources. In short, political economy shapes the balance power among contending social, economic, and political actors that have conflicting views of the distributional and environmental consequences of extractive mega-project development.

Our cases tend to focus on the politics of resistance to rollback, when institutions and policies to mitigate environmental and social risks are under threat and the objective is to limit the damage. This opens the door to future studies on the roles that social movements might play once policies and institutions to mitigate risks are put in place and on how their engagement might influence the extent to which they are effective. Do they contribute to more equitable environmental outcomes, health outcomes, distributional outcomes, and the power/voice of communities? Although our collection does not address those questions directly, the cases of Costa Rica, Pascua Lama, and Peru suggest that the politics of implementation would be similar to those of resistance to rollback in terms of the overall coalitions, strategies, and institutional settings. Future research could test this.

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