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Around the Establishment of Protected
Areas in Nepal Himalaya***

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Abstract: This paper examines and uncovers the politics and debate emanating from and embedded in the contestations and negotiations around the establishment of protected areas (PAs) in Nepal. We take an example of one of the newly declared PAs – Gaurishankar Conservation Area (GCA)—and traverse through the politics and debate over its establishment. This paper is based on the ethnographic encounters and accounts of everyday dynamics, popular discourse and deliberations since the government's declaration of GCA in central Nepal. It is driven by a political ecology approach to analyse state – community contestation around nature conservation. We argue that vigorous social campaign at different levels primarily led by Federation of Community Forest User Groups Nepal (FECOFUN) has been able to bring the state and powerful conservation actors on the negotiation table by contesting the hegemony of conservation and rhetoric of community based conservation. The contours of FECOFUN's campaign around GCA suggest how the nature of contestation and conflict has evolved from a mere resistance and protests towards critical engagement and negotiation with the state conservation actors leading to a democratic governance of GCA. We suggest that concurrent adoption of constant struggle and critical engagement can produce negotiated arrangement of PA governance.

Key words: conservation area, contestation, negotiation, governance, regulation

INTRODUCTION

Historically, the establishment and management of protected areas (PAs) have been the battlefields of state -community contestation primarily in the developing countries (Holmes 2007; Ghimire and Pimbert 1997). While establishing and managing such sites, the state and its conservation agencies have increasingly faced challenges from local communities, their networks and civil society at large; resulting in an encounter of multiple actors with diverse interests, values, motivations, meanings and perceptions. In many cases these conflicts are beyond state-community dichotomy and may involve diverse equations of conflicts depending upon specific actor configurations at particular moments. These conflicts over access and control of natural resources in and around PAs have taken a new form in the era of

participatory conservation (West *et al.* 2006; Ghimire and Pimbert 1997). Many of them can be couched within debates concerning democratic governance of PAs. One of the common shifts is a simultaneous process of contestation and negotiation by the local communities and their allies.

On the other hand, conservation campaigns and discourse in Nepal have long enjoyed a moral high ground and often work within a comfort zone insulated from all kinds of resistance, critique and opposition. The campaign rallied such ideas as "conserving biodiversity for future generation", "protecting the respected nature", "fulfilling the nation's global obligation", and "conserving the ecosystem for our own environmental security." These high sounding and morally powerful images and discourse of



conservation campaigns supported the promoters with their self-respect and successfully undermined or ignored any opposition to it. More importantly, the image became instrumental in making the fund raising campaign more appealing.

However, in recent years in Nepal, as in other parts of the world, different forms of resistance against displacement, marginalisation, impoverishment, injustice, and disenfranchisement have become one of the defining features around PA management (Holmes 2007). The growing unpopularity of PAs has become a concern for conservationists who, however, have coolly received these developments. The strong influence of a protectionist conservation ideology (Brockington *et al.* 2008; Brechin *et al.* 2003), the use of military as the sole protector of flora and fauna, and a strong legacy of feudalistic attitudes and interests nurtured by the ruling elites (Paudel *et al.* 2006) have supported the state monopoly over conservation policy process. But the powerful conservation authorities that enjoyed monopoly over establishment and management of PAs have now faced immense resistance from citizen networks and civil society organisations (Paudel *et al.* 2010). Still, conservation authorities and Non-Governmental Organisations (NGOs) tend to think that they, and only they, are the ultimate salvagers of nature as local communities and other actors are suffered from myopia. Due to this sense of self-assumed responsibility, they are reluctant to share the management role with the local communities and other stakeholders.

An understanding of the emerging contestation and negotiation around PA management can inform the wider conservation policy process in general and the PA management in particular. What are the new forms of resistance against the newly established PAs? How can we understand and characterise such resistance campaigns? How have different actors

responded to such contestation and negotiation? What can we learn from confrontation and contestation against PA expansion? These are the key questions around PA management that can help us deepen our understanding of the relationship between PA and local people in the context of changing political and material realities.

The paper is based on a premise that these strategies of concurrent contestation and negotiations are relatively new phenomena, at least within Nepal. But, these phenomena are not well documented and analysed so far. The plethora of conservation literature is dominated by the accounts of conventional conflicts, dominance and confrontational politics (Holmes 2007; Norgrove and Hulme 2006). Though new forms of stakeholder engagement appear smooth and easy going, they involve strife, conflicts, contestation and negotiations among social actors. The global experience of co-management of natural resources is also indicative of this (Borrini-Feyerabend *et al.* 2004). This paper documents and analyses these contestations and negotiations that transpire during the creation of new PAs in Nepal Himalaya. It draws on evidence from the process of establishing Gaurishankar Conservation Area (GCA), which is a newly added PA in Nepal.

The paper is structured into six sections. The second section that follows revisits the history of PA management in Nepal followed by the third section that describes the saga of protest campaign around GCA. The fourth section examines the changing position and strategies of FECOFUN. The fifth section draws some key lessons learned from the story of GCA. Finally, the paper concludes with the suggestion that PA policy process must be informed by and fully embrace the changing political and material reality in order to gain legitimacy among stakeholders.



CHANGING APPROACHES TO PROTECTED AREA MANAGEMENT IN NEPAL

The early PAs in Nepal were established from the centre without the consultation of the local residents and thus the concerns of local people were largely ignored (Mishra 1984; Ghimire and Pimbert 1997; Heinen and Yonzon 1994; Heinen and Mehta 1999). Local residents and indigenous peoples were either physically displaced from PAs (Furer-Haimendorf 1986; Thapa 2001; McLean and Straedes 2003) or were denied their customary access and use rights (Jana 2008; Campbell 2005a; Paudel 2005; Muller-Boker 2000; Stevens 1997). Besides, in many cases they suffered heavily from increased wildlife depredation, including human casualties (Shrestha 2007; Upreti 2009). Party-less *Panchayat* system – the autocratic regime during 1961-90 under the direct leadership of the monarchy – did not allow the expression and articulation of any legitimate concerns of the local communities that faced the onslaught of conservation through PAs model. The close tie between the royal palace and the conservationists (Bhatta 2003) provided the PAs with strong political and military support that effectively suppressed any organized resistance against the coercive conservation practice (Peluso 1993). As PA wardens were operating in a relatively comfort zone, they did not require any consultative and participatory practice to adopt (Paudel et al. 2006).

Interestingly, the initial PAs were established by small and sometimes visionary leadership with very little, if there was any, public consultation. During the early 1970s foreign advisors from Food and Agriculture Organisation (FAO)/ United Nations Development Programme came to Nepal and persuaded King Mahendra to establish a National Park in Chitwan and other PAs in other areas (Upreti, B.N 2012 personal communication with Heinin 1995). The setting

up of the first national park preceded the promulgation of PA law and was undertaken under the aegis of the royal directive (Gurung and Coursey 1994). During his visit to the Annapurna region, King Birendra, then patron of King Mahendra Trust for Nature Conservation (KMTNC), directed the officials to develop the landscape as a tourism destination while maintaining its environmental integrity (Bunting et al. 1991:165). The then prince Gyanendra announced the establishment of Sagarmatha National Park (SNP) during the Congress of World Wide Fund for Nature (WWF) in 1973 after being advised by the FAO advisor, John Blower who had visited Khumbu just before that (Schilling 1997; Stevens 1997). In establishing SNP, the officials held some initial consultations with the local Sherpas since there was already a high level of local skepticism given the experience of lowland PAs (Sharma 2012)⁴.

However, despite the repressive political regime and state imposition of PAs, park-people conflicts emerged and gradually became widespread (Basnet 1992; Paudel 2005). These conflicts were relatively intense in the lowland Terai due to its fertile land and fast growing population on one hand, and rich biodiversity with valuable mega fauna on the other (Ghimire 1992; Shrestha and Conway 1996; Malla 2001). These conflicts became evident through numerous cases of local conflicts and resistance (Jana 2008; Paudel et al. 2010). In the context of growing park-people conflicts, conservation authorities began to gradually recognize the need to devise policy mechanisms to reconcile the interests of local people and wider conservation goals (Mishra 1984; Sharma and Shaw 1996). Reopening of grass collection in Chitwan in 1977 and bringing a new, relatively soft regulation for mountain PAs in mid-1980s were some of the steps introduced to ease local conflicts (Heinen and Mehta 1999).

⁴ Uday Raj Sharma, pers. comm. via interview. Feb 15, 2012.



The democratic movement and the political change in 1990 got rid of the autocratic *Panchayat* system thereby breaking the traditional relation between the monarchy, army and the PA authority. The new political regime backed a more democratic and progressive environmental agenda such as participatory conservation and community forestry. Apart from the nature of political regime, scholars have identified a number of factors for the shift towards participatory conservation. These include failure of centralized top down approach, high cost of policing, international wave of participatory approaches and changing paradigm of development, pressure from international community, and increased awareness and assertion of the rights by the citizen themselves (Kollmair *et al.* 2003; Campbell 2005b; Budhathoki 2004; Heinin and Shrestha 2006).

This participatory turn in Nepal's conservation has taken diverse forms away from the conventional centralized management (Gurung 2008; Bajracharya *et al.* 2007). The establishment of Annapurna Conservation Area (ACA) in 1986 was the landmark step towards involving local people in conservation, supporting local livelihoods and actually integrating conservation and development (Gurung and Coursey 1994; Brown and Wyckoff-Baird 1995; Sherpa *et al.* 1986; Bajracharya *et al.* 2007). The introduction of the buffer zone (BZ) programme in 1996 for sustainable management of BZ areas by local institutions and benefit sharing from conservation and the handing over of the Kanchenjunga Conservation Area (KCA) to the locally elected Council in 2006 further advanced

the participatory approach in nature conservation. A gradual shift from species centric conservation to ecosystem and landscape level conservation, from strict and protectionist approaches to a participatory one can be observed over the period of more than four decades of protected area interventions in Nepal (Acharya *et al.* 2011; Bajracharya and Dahal 2008; Heinen and Yonzon 1994).

GAURISHANKAR CONSERVATION AREA AND THE SAGA OF PROTESTS

GCA⁵ is a newly declared PA in Nepal Himalayas. GCA is one of the three PAs that the Government of Nepal (GON) declared a week before the Copenhagen Climate Summit in 2009. It was clear that the government wanted to project its environmental commitment at the eve of the global climate summit. The decision was formalised on 11 January, 2010⁶ and the GCA was handed over to Nepal Trust Nature Conservation (NTNC)⁷ with management responsibility for 20 years on 19 July 2010⁸. Among others, GCA is driven by an imperative of connectivity between the two existing PAs to the east and the west as well as for its potential for tourism (THT 2010).

But the declaration to establish GCA met with resistance and opposition. It was FECOFUN, the largest civil society network of community forest users, which was the first to oppose the decision. FECOFUN claimed that the declaration was a unilateral and exclusionary decision of the state and that it undermined the forest rights of local and indigenous communities in the region. Issuing a press release

⁵ The GCA has an area of 2179 sq.km and covers 22 VDCs of three districts, namely Dolkha, Ramechhap and Sindhupalchok in central Nepal Himalayas.

⁶ Nepal Gazette Section 59, Number 38, Part 5. [11 Jan 2010]

⁷ National Trust for Nature Conservation (NTNC), which was established and known as King Mahendra Trust for Nature Conservation. It was established under a special act (National Trust for Nature Conservation, 2039 B.S) and continues to enjoy an exclusive privilege to manage 'Conservation Areas' in Nepal. Originally, it had the King and, at present, the Prime Minister, of Nepal as its patron. It has therefore been an important and influential conservation actor in Nepal.

⁸ Nepal Gazette Section 60, Number 14, Part 5 [19 July 2010].



they strongly demanded an immediate withdrawal of the government decision. The Natural Resources Confederation⁹ and many civil society organisations working and promoting community based resource management supported the resistance movement. The key arguments against the state declaration of GCA were: this would undermine local people's access to forests, dismantle the long grown community forestry institutions, bring external agency to control local resources and thus ultimately jeopardise conservation goals. The FECOFUN organised a series of interaction programmes involving political leaders, forest ministry officials, NTNC officials, civil society actors and local representatives. Most of the actors during these interactions agreed that the declaration of the GCA should not undermine local rights over resources. The ministry and NTNC officials attempted to assure that the GCA would fully respect the customary rights and traditional use practices of local communities as well as existing status of Community Forest User Groups (CFUGs) in the region.

However, neither the government nor the NTNC appeared to rethink their decisions. Instead, the NTNC advanced its local level meetings and the formation of Conservation Area Management Committees (CAMCs)¹⁰ under the aegis of the existing Conservation Area (CA) regulatory framework¹¹. The formation of CAMC sounded like an election was coming to the village, which brought an electoral celebration at the local level. Candidates and their die-hard supporters were fully involved in the campaign, though most

of them were little aware of the roles and responsibilities of the CAMCs. Most of the candidates were previously Village Development Committee (VDC) leaders. This brought in gaiety in the villages after a long gap of political activities, particularly the lack of election in local government bodies. It was a 'do or die' kind of war between the political parties. Those who were elected as the CAMC members, gradually began to support the GCA as they happened to own it albeit unknowingly. NTNC benefitted from these political sentiments through injecting formation of the CAMC that also helped increase its legitimacy.

Moreover, the government made its preparation for the formal inauguration of the GCA by the then Prime Minister, Madhav Kumar Nepal. Two important foreign guests - the Norwegian Minister for Environment and the Thai Minister for Environment and Forest were among the invitees. The FECOFUN leadership in the centre and also in the three districts got frustrated with the government action. Their formal official gentlemanly expression of dissatisfaction and dialogue with the government and political leaders appeared too weak at this stage. Consequently, they chose direct confrontation. They formed a struggle committee, "Sangharsha Samiti", from the village level to the district level comprising members of FECOFUN and Nepal Federation of Indigenous Nationalities (NEFIN) representatives and a few journalists, while at the central (national) level it was under the leadership of the FECOFUN general secretary. The central struggle committee met in Kathmandu on 5 February 2010 and discussed the issues and developed a

⁹ It is a confederation of all natural resources user group federations and was formed during the constitution drafting process to exert pressure for stronger community rights over natural resources.

¹⁰ The CAMCs - Conservation Area Management Committees are the key institutions formed at VDC (Village Development Committee - lowest politico-administrative units in Nepal) level and are the foundation of local institutions in conservation areas.

¹¹ The GCA was established under the Conservation Area Management Regulation 2053 (1997), which is regarded as inadequate in recognising the rights of local communities.



programme of campaign that included local level meetings, signature and awareness campaigns, and district level stakeholder interactions. Once the proposed date for inauguration by the Prime Minister was set, the protest committee announced a general strike on the same day. All activities of awareness and organising local communities were intensified. As the planned date of inauguration approached, the authorities did not take the risk. They attempted to persuade the protest leaders but it did not work. Finally, the inauguration was postponed and all preparations were cancelled.

The protest campaign, however, continued. Local level protests were complemented by similar interactions among various concerned actors in the capital. Member of Parliaments of the three districts, some political leaders and protest committee leaders met the then Forest Minister and the Prime Minister and urged to withdraw the declaration. The local campaign had also gained media attention that helped to publicize the issue.

The continued 'anti-GCA campaign' became a serious concern for the government and the NTNC. They found it increasingly difficult to proceed without addressing the demands of campaigners. In this context, the NTNC organised an interaction meeting in its own office on 24 February 2010. The meeting was chaired by Deepak Bohara, the then Forest Minister. Most of the political leaders of the GCA region were present. The NTNC presented the current Conservation Area Management Regulation 2053 (1997). They announced that the GCA would be managed under the same regulation in which NTNC enjoys central authority and power over governance and management of CAs. However, the Members of Parliament (MPs)

and many other participants opined that the regulations were not democratic enough¹². Many participants, particularly the MPs of the region, suggested amending the existing regulation to make it more democratic and progressive so that it would respect local resource rights and foster stronger local institutions. On the whole the meeting gave a mandate to drastically amend the existing regulation. One of the common views was that the regulation must respect [and promote] the existing forest management and user rights under community forestry. The MPs and political leaders of the area suggested that they would support the GCA if it garners support from local community forest users.

The NTNC also arranged visits for political leaders, MPs, local leaders and media people to Ghandruk in ACA. It also organized an interaction with local community leaders and business leaders to showcase the success of the ACA led by the NTNC. The visiting team was impressed by the integrated conservation and development through resource generated by tourism. The visit became instrumental in making the GCA an appealing case particularly by selective highlights of Ghandruk that has most benefitted from tourism and the global fame of ACA. The government and the NTNC appeared ready to amend the existing CA Regulation. However, despite their formal commitment to amend the Regulation, they adopted strategic tactics to minimise the changes as demanded by campaigners and keep the essence of the old regulation intact. No fundamental shift was made despite several versions presented by the NTNC. Who should hold the key governing power – NTNC staff under the current legal framework or the locally elected council – an apex body of CAMCs - remains the bone of contention.

¹² The current Conservation Area Management Regulations (1997) has a provision allowing the conservation officer to dismiss the CAMCs, approve the management plan and instruct the CAMCs.



COMMUNITY FOREST FEDERATION' POSITION CHANGED: NOW DEMANDS DEMOCRATIC 'CONSERVATION AREA'

Initially, FECOFUN completely rejected the idea and imposition of 'CA'. In fact, it was the one and only slogan of the protest movement (see box 1). However, gradually the slogan appeared to fade away. It then began to demand a more democratic approach; full compliance of international standards of adopting the principle of 'free, prior and informed consent' of local communities and indigenous peoples, change the existing CA Regulation, empower the local institutions and most importantly respect the existing rights of the CFUGs (see box 1). There are four explanations to this shift in position.

Box 1: FECOFUN slogans during its Forest Caravan

- No conservation area; no contractor in community forestry!
- Withdraw the protected area expansion!
- Stop interference against community autonomy!
- Up up (long live) community forestry!

First, during the past couple of years, FECOFUN has induced more opposition than its allies in its campaign for community rights. Voices against community forestry (CF) and FECOFUN are on the rise within forest bureaucracy. The political leaders who favoured the CF in the past appeared to be indifferent or even skeptical on the strength of CF approach to protect the country's forests.¹³ Many political leaders, particularly from *Madheshi* constituency have openly demanded alternatives to CF in Terai (Bhusal 2010). Parliamentary committee report on Terai forest gave a clear

indication that community leaders were involved in financial irregularities and in unsustainable timber harvesting (CNRM 2011). The best judgement of this situation would be to take a more pragmatic stand so that they would get something out of this movement.

Second, being a defender of CF rights, FECOFUN's movement was based on the argument that the declaration of GCA would potentially curtail the rights of existing CFUGs. Therefore, the scope of the movement remained limited to securing CF rights and did not cover overall governance issues within the GCA. The local support to the movement was based on the perceived threats to community forests. Once the government and the NTNC appeared ready to recognise the rights of CFUGs, FECOFUN lost the ground to oppose GCA.

Third, from the beginning, the political leaders particularly of the three districts, supported and even promoted the establishment of GCA mainly due to the perceived prospects of the benefits of tourism, especially influenced by the experiences and approach of ACA. In fact, the District Development Committee (DDC) council of Dolkha district, consisting of political party representatives earlier had demanded the establishment of GCA. Prospects of economic development through tourism remained one of the major rationales for declaring GCA. The DDCs, political leaders and NTNC all subscribed to the view. In fact, this rationale and discourse became the powerful tool to boost the local expectation from GCA and garner local support to it. The positive image of ACA generating huge sums from ecotourism and the prospects of bringing this home by NTNC created a powerful lobby and political rationality for GCA. FECOFUN found that opposing the GCA proposal

¹³ Many political leaders have now begun to talk about protected area and other state-managed system to manage larger forestlands and landscapes. This is an observation of authors from several NRM related gatherings and deliberation.



without any convincing alternative became a difficult job. In this context, it was easy for the government and the NTNC to accuse the opposition movement as anti-development or anti-conservation elements, who did not want the well-being of the people of the region. Couched in the narratives and ideas of economic prospects through eco-tourism and conservation of nature are constitutive of the powerful discourse of 'CA' nurtured by powerful actors such as the government and the NTNC. To challenge and question the coercive and imposed conservation under rubric and legacy of community-based, participatory conservation, and related rationality, therefore becomes extremely difficult.

Fourth, FECOFUN is increasingly challenged for its emotional attachment to CF and being blind to agree on viable institutional options for managing larger landscapes. The value for larger landscape level management is especially appreciated for ecotourism, biodiversity, connectivity of PAs and other ecosystem services including carbon sequestration.

Although Nepal has experimented with and developed diverse institutions for managing small forestlands, there are no proven community institutions for larger landscape management with the exception of KCA. This time, FECOFUN appears to have acknowledged the need of representative institutions with capacity to govern and manage larger landscapes. Consequently, FECOFUN shifted its idea from complete rejection of GCA to ensure community rights within it.

Thus, FECOFUN leadership made a wise assessment of the situation, and therefore took a more pragmatic position in which it could garner support from a wide range of stakeholders, particularly within the GCA region. These rather pragmatic demands can be observed in the series of press releases issues by FECOFUN during the movement (Table 1). In fact, with this new position, FECOFUN was able to develop a strong alliance with the local political leaders and build pressure against NTNC to formulate a new GCA regulation with strong roles for the locally formed institutions and protect the integrity of the CFUGs in the region.

Table 1: List of press releases around protest against GCA

Title of the press release	Key problem identified	Suggested solution
Withdraw the declaration of protected area (By FECOFUN on 4 Dec, 2009)	GCA and other PA declaration undermines achievements of CF programme, imposes Panchayati law, ignores provisions of MEAs (CBD, ILO 169, UNDRIP), disrespects mandates of democratic movement	Recognise, respect and promote community based conservation
Do not proceed with GCA without respecting local institutions (By CF Protest Committee, Dolkha on 3 March, 2010)	GCA and particularly the conservation area management regulation 2053 have undermined CFUGs.	Revise the Regulation and then proceed
Against non-transparent advance of GCA process (By Sangharsha Samiti on 3 May, 2011)	Declaration of GCA and undermining of CF rights is illegitimate and transferring the management responsibility to GCA is unacceptable	Develop more democratic law that respect the sovereign citizen and proceed accordingly

Title of the press release	Key problem identified	Suggested solution
Public statement of FECOFUN during public hearing in Charikot (20 May 2010)	The proposed governance structure of the GCA is NTNC led. The bureaucratic decisions may prevail as democratic and community based institutions are not visible in the structure	Respect CF and other local institutions.

Where is the Government in this Process?

Surprisingly, after the declaration of the GCA, the government appeared to be playing only a very formal, legal role and remained largely silent throughout the process. However, two decisions of the government remained important. First, after the GCA declaration, the Department of Forest withdrew all the forest Range Posts so that there was a complete absence of state forest agency. While it was logical to remove the Range Posts, as the management responsibility of the region was officially transferred to NTNC, the move helped NTNC to show its presence and expedite filling up the vacuum with alternative institutions. Second, when the pressure for reformulation of new GCA Management Regulation was built, the Ministry of Forest and Soil Conservation (MoFSC) sent a representative to coordinate the drafting committee.

All the remaining debate, conflict, and negotiation took place between NTNC and FECOFUN. In fact, in most of the cases, the FECOFUN movement was targeted against NTNC's authority and activities, which adopted diverse strategies to secure its own interests.

Long and Tiring Process of Drafting the Gaurishankar Conservation Area Regulation

Negotiation began around reformulating the management regulations. It has been a long and exhaustive process involving actors' strategic move, lobbying, manipulation, cunning manoeuvring, and give-and-take in minute provisions of regulations. A task force for drafting the regulations was formed from amongst legal experts from the MoFSC, MPs and politicians. However, a smaller seven-member committee was formed later, comprising of experts from various fields. The following table shows the key milestones of the regulation drafting process.

Table 2: Key milestones during the drafting processes

Date	Event	Comments
February 02, 2009	Forest Secretary and former MPs of the region met and decided to conduct a feasibility study especially consultation with CFUGs in the region	
December 04, 2009	GoN, cabinet meeting declared GCA from Kalapatthar meeting	To heighten global image and commitment of Nepal government in conservation
January 10, 2010	GCA published in the Gazette	
July 19 2010	Decision to handover management responsibility to NTNC for 20 years	Under existing Conservation Area Management Regulation 2053 (co-managed at village level but under the control of the agency and its officials)



Date	Event	Comments
February 24 2010	NTNC organised a meeting and expressed its intent to manage GCA according to 2053 regulation	
May 20, 2011	NTNC shared its regulation in Dolkha DDC, citizen's regulation also shared. A decision to develop a new version combining both was agreed.	Citizens' regulation proposed by FECOFUN, envisaged GCA under community governance.
June 10, 2011	NTNC presented the new version – citizen perspective absent. Finally another task force with 7 members was formed to bring an accepted regulation.	
July 27, 2011	The newly drafted regulation shared at Babarmahal –forestry training centre, Kathmandu. A decision to organise a public hearing in Dolkha	
Aug 17, 2011	A public hearing organised in Dolkha DDC Hall.	
Aug 30, 2011	Final draft after incorporating comments from public hearing.	

The actors adopted strategic moves in securing their institutional interests in the new regulation (Table 2). Initially, NTNC tried to give continuity to the existing CA regulation, though in public it promised to develop a new one. The drafting committee, which was primarily working alongside NTNC, took the current regulation

as the foundation for any new regulation. The government also backed this position¹⁴. The existing Regulation was founded on National Park and Wildlife Conservation (NPWC) Act 1973 and changing this act was not possible this time due to political transition.

Table 3: Actors and interests around GCA

Key Actors	Role/Interests/Stake
Ministry of Forest	Declared GCA and entrusted management responsibility to GCA. Close nexus of the then Forest Minister with NTNC.
NTNC	Key management authority under the current CA regulation; already launched GCA project and related interventions.
DNPWC	Engaged in the scoping study of GCA.
FECOFUN	Concern towards rights of CFUGs in CA; contesting the current regime and regulation of CA; advocating for revised CA regulation to incorporate CA governed by local communities.

¹⁴ The Director General of the Department of National Park and Wildlife Conservation explicitly stated that unless there is no new regulation, they must follow the existing Conservation Area Management Regulation 2053 BS and they cannot help develop any alternative institution within the GCA in that situation.



Key Actors	Role/Interests/Stake
MPs	Initially, envisaged Rolwaling CAs (mainly MPs of Dolkha); later supported GCA and NTNC under current legal regime; then positive for community managed CA; led negotiations between the struggling groups and NTNC.
Dolkha DDC	Flagged initial proposal of CA; envisaged potentials for eco-tourism in the region.
CFUGs	Engaged with FECOFUN in the ongoing campaign to secure local rights to forest resources.
Local communities	Little informed and inadequately consulted; continued access to natural resources as well as development benefits from CA project.
Donors	Scoping study (SDC, WWF, NTNC); initiating baseline study, drafting of management plan
Nepal Federation of Indigenous Nationalities district coordination committee, Dolkha	Dissenting with NTNC due to lack of consent and adequate representation of indigenous peoples in the region. Supporting the campaign led by FECOFUN for community governance of GCA

Conservation Area Management Regulation (2053) was one of the most contentious issues around GCA management. As Annapurna and Manaslu CA were being managed under this regulation, it was convenient for both the government and the NTNC to follow it. However, the FECOFUN and the *Sangharsha Samiti* were unhappy with this regulation, as it did not recognise the CFUGs and the Council and did not provide adequate rights to CAMCs. The *Sangharsha Samiti* took to the streets. Village level meetings were organised in several places and demand for a new regulation was strongly established. The political leaders also boldly favoured for a new regulation. Consequently, NTNC felt pressure to have a reformulated regulation. The government and NTNC brought a couple of revised versions, which were rejected. The third version was shared in Charikot, Dolkha district headquarters. At the same event, FECOFUN presented an alternative frame of the regulation. After a day-long discussion, there was an understanding to bring a revised regulation that would satisfy all parties. It was followed by a meeting at NTNC on 10 June 2011. After the meeting, a multi-stakeholder task force was designed to bring a negotiated regulation.

During the process, NTNC representatives recognised the sovereign rights of the people in principle. However, in practice they did not adequately appreciate the issue and preferred to put the NTNC officials as the key decision makers. There was a problem with political leaders too. Some were not keen to have inclusive structure of the drafting committee. In other cases, it was difficult to confirm the authenticity of the representatives. FECOFUN members used separate tactics. Time and again they threatened to boycott the process. In many cases they were involved in disputes and halted the process. Authorities showed legal difficulty in naming the regulation as ‘community conserved area’ based on the essence of community governance beyond current collaborative governance modality of CAs - currently under the aegis of NTNC. As there is no such provision in the NPWC Act 1973, they were reluctant to incorporate the powerful term ‘community’ in naming the regulation.

The political leaders and other actors of the GCA region were in a difficult position. Initially they backed the idea of having the GCA, though the picture of the actual governance and institutional arrangement was not made clear at



all. Many of them claim that they had actually demanded for locally controlled management and did not expect any external agency to control the management. While they always tried to be politically correct, many of them strongly supported the GCA during internal meetings with the government and NTNC. In some cases, they strongly urged the protest groups to give up their movement.

The Current State of Gaurishankar Conservation Area and the Regulation

As compared to ACA, the current negotiated management regulation of GCA have a number of provisions (as indicated in 4) that provide adequate space for local decision making on management. Moreover, during the course of

interaction and dialogues, authorities appear to have prepared for amending or reformulating the existing NPWC Act 1973. There are however some good provisions in the current draft. Locally elected council will be governing the GCA. It will comprise of 22 CAMC chairs and representatives from diverse social actors such as FECOFUN, indigenous nationalities (*adivasi janajati*), women, *Dalits*, entrepreneurs etc. VDC level CAMCs will be handing over CFUGs and are responsible for monitoring. There won't be any restrictions on forest products harvesting and transport from CF and private forests. The council will be formed within a year once the regulation is approved. Both the council and CFUGs are self-governed, autonomous and enjoying full rights.

Table 4: Comparison between existing and proposed draft regulation

	Existing CA regulation	Proposed draft regulation
Conservation Area Management Committee (CAMCs) at VDC level	Exists at a VDC level Conservation Officer nominates 5 members in the committee	Exists at a VDC level but linked with its apex body
Apex body of CAMCs	Non existing	A council of CAMCs as an apex and representative body exists
Management and governance type	Collaborative and co-governance A conservation agency entrusted by the government is the lead authority to manage and govern the area under conservation, role of CAMC is limited to VDC level planning and management but ultimately to be approved by the conservation agency	Governance by local communities. A council of CAMC governs the area, and decides upon the required assistance from service delivery organization.
Autonomy of CAMC	CAMCs can be dissolved by the authority of conservation officer of the agency managing the area.	The power to dissolve CAMCs is vested on the council of CAMCs
Management Plan	The conservation agency prepares the management plan by consolidating VDC level plans submitted by CAMCs and approves the same	Council of CAMC prepares the management plan and is approved by the MoFSC.
Revenues and royalties	Income generated by CAMC belongs to conservation agency to be invested back for local development and conservation	Income generated goes to the council of CAMCs.

	Existing CA regulation	Proposed draft regulation
Autonomy of CFUGs	No exclusive provision for CFUGs, forest conservation and sustainable use is vested upon the CAMCs as approved by the conservation agency.	Autonomous CFUGs. CFUGs are handed over CAMCs.

CHANGING POWER CONFIGURATION AND NEGOTIATED OUTCOMES

The government's approach to establishing GCA, the confrontations and negotiations around the process and the negotiated outcomes of governance framework bring a rich repository of experiences and insights on PA management and governance. The political ecology around GCA establishment and contestations on subsequent legal framework can be understood in the following three key areas:

- a) **The government and giant conservation NGOs have lost monopoly over conservation policy process:** Unlike in the long history of Nepal's conservation policy processes engulfed by powerful and exclusive techno bureaucratic domination, this is the first time that the government decision and NTNC initiatives were questioned, contested and resisted in an organized way and at multiple scales. This is demonstrated by the local level awareness campaigns and civic actions that ranged from protest events, disruption of consultation meetings, challenging the current provisions of CA Management Regulations 2053 to blocking of NTNC – led local processes and blocking of Prime Minister's inaugural programme. Unlike in many previous cases the government could not use force and completely disregard civil society actors.
- b) **The government and the NTNC did not fully embrace the new political reality and international discourses:** Despite the emergence of powerful people's organization and Civil Society Organization (CSO), the power alliance between the government

and the NTNC appear to have limited appreciation of the new political reality. Instead they adopted more strategic and tactical ways to advance their own hegemonic agenda under the noble cause of conservation and tried to undermine, ignore or avoid direct interface with local actors and their voices. Despite several pleas and warnings from protesting groups, the NTNC continued to advance the formation of CAMCs, tried to mobilize the political parties in its own interests, attempted to legitimize the CA management regulations 2053, and took MPs and local leaders to ACA visit. These strategic and tactical moves indicate that the government and the NTNC wanted to maintain the status quo and were not genuinely committed to the democratic governance framework of the GCA. One can argue that without powerful civic action, NTNC would not have entertained any dialogue with FECOFUN and protesting groups or gone beyond current modalities of CA.

- c) **Concurrent confrontation and negotiation brought in negotiated governance structure:** Initially, the government and NTNC were unilaterally planning for CA modeled after ACA and without any modification. They did not see any reason to change the 1997 Regulation. They had the regulation at hand that suited their understanding and interests. Similarly, FECOFUN initially had completely denied the concept and imposition of a CA and advocated that CF was the ultimate answer to any resources management question. However, FECOFUN continued its engagement concurrently through confrontation and negotiations that gradually transformed them to



a position in which they appreciated the significance of CA in managing larger landscapes. In fact in the later phase, they maintained that they were in favor of democratically governed CA that is founded in local institutions and allows local resources management practices such as CF. The government and NTNC also appreciated the role of local actors not only participating within the centrally developed and administered framework but also actually in the decisive role in governing the GCA. However, the final draft of GCA is yet to be endorsed by the government.

The confrontations and negotiations on GCA are fundamentally different than any PA establishment in Nepal's history. Though there have been participatory designs in the past, none of them had such a strong, organized and well-articulated engagement by any civic agency. This is fundamentally different from those previous initiatives that brought important milestones in moving away from fine and fence system to a participatory conservation model. This is the first time the conservation authorities and actors faced critical challenge in their initiative. The process of establishing the GCA was challenged, the consultation process was accused of being inadequate and very strategic in terms of fulfilling vested interests, the content of the centrally designed regulation was disowned and disagreed, and new formulation was suggested. Moreover, the governance of GCA by a locally formed council was agreed, the status of CFUG was assured and an inclusive structure was designed.

CONCLUSION

This paper recounted and described the resistance movement around GCA, particularly against the government and NTNC's unilateral approach to declare and manage it. This initiative stimulated the concurrent confrontation and negotiation and reshaped actor dynamics around negotiating the governance structure of

the GCA. It is argued in this paper that the GCA process was fundamentally different from previous instances of establishment of PAs in Nepal in that this involved an active interplay among a number of actors, mainly the government, NTNC, FECOFUN, political party representatives and the media. Accordingly, the outcomes of the contestations and negotiations differed from those from previous instances of the establishment of PAs.

The case of GCA demonstrates that the conventional policy process on nature conservation requires a major rethinking and must appreciate the changing political and material reality of the society and polity. The new reality includes among others, an increased sense of resources rights, management skills, local conservation stewardship, existing experiences of diverse types of successful resources management and conservation regimes, empowerment of local people through their ties with political parties, and increased CSO capacity to strategic advocacy with convincing articulation. The strategic and tactical moves of the government and the NTNC still shows their reluctance to appreciate the new reality and indicate a continuation of their conservation hegemony and associated legacy with the top down, techno-bureaucratic management under the rubric and rhetoric of community based conservation. We see immense potentials of empowering locals and their conservation stewardship in the course of conserving biodiversity and cultural diversity of GCA by actualizing democratic and innovative governance as envisaged by the negotiated draft regulation.

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