

Public Participation in Environmental Governance

Advocating Public Participation for Better Management of Natural Resources

Lives and livelihood in Bangladesh are inseparable from nature and natural resources. The agriculture as a whole contributes to 22% of the GDP while the contribution of the fisheries and forestry sector is 9% and 3% respectively. The three main type of public forests that Bangladesh has are:

- i. Tropical evergreen or semi evergreen forest comprising 640,000 ha in eastern districts of Chittagong, Coxsbazar and Sylhet.
- ii. Moist or dry deciduous forest known as Sal forest comprising 122,000 ha located mainly in the central plains and the freshwater areas in the north east region.
- iii. Tidal mangrove Forest along with the coast comprising 520,000 ha, known as the Sundarbans in the south-west region.

Over the years, forest cover in Bangladesh has come down to 6% from an officially claimed 20%. Statistics say that despite having the legal authority, the government has failed to finally declare substantial patches of forests as 'reserve' (a mode of protected area management that restricts peoples' access and exercise of customary rights) and categorically failed to manage those declared both as an ecosystem and also as service providers to these bulk of ethnic people.

This is because the mode of administration missed to perceive the linkages between people and nature and overlooking the genuine needs of the marginalized. Instead it opted for the closed and unaccountable mode of operation to satisfy the greed of few. That is why the recent anti-corruption drive

of the government has listed the top officials of the forest department as the top corrupt people of the country.

Existing Laws and Regulations and its impact:

The laws relating to management of public forest are governed by the Forest Act, 1927 which however does not specifically define the term forest. From a management point of view, particularly bearing in mind the objective to generate revenue, the said Act categories forest into Reserve Forest, Protected Forest and Village forest.

Under the said Act, the government may declare any land over which it has proprietary rights as *Reserve Forest* provided a forest settlement officer was appointed and all rights e.g. rights of a forest dweller that have existed have been inquired and settled. A statistics of the forest department show that despite proposing few forests for declaration as reserve forest, the government did not issue the final notification and as such the forest dwellers rights could not be settled by the Forest Settlement Office. Once a forest is declared reserve, the government may assign to any village community the right of the government over the forest which shall be called *Village Forests*. In practice no such assignments have ever been made.

Any forest or waste land that is not a reserve forest but over which the government has proprietary right may be declared a *Protected Forest*. In a protected forest the government may declare the trees as reserved, close part of forest for 30 years and suspend rights of private persons. Exercise of rights by the inhabitants of adjoining towns or villages shall be regulated by rules that would provide for licenses and acts to be prohibited in such forest.

The Private Forest Ordinance, 1959 defines forest as land recorded as forest under specific laws and such other land containing tree growth as may by notification be declared as forest by the Government. *Private Forest* means a

forest that is not the property of the Government or over which the Government has no proprietary right. 'Conservation' of forest under the Ordinance has targeted the private forests and shall include such measures as are necessary in the opinion of the Regional Forest Officer (RFO) for the prevention for remedying of the erosion of the soil or any flood or landslide.

Under the Ordinance, the government may direct owner of every private forest to submit within a specified period a working plan for the conservation of such private forest. If the owner fails to do so within the specified time limit, the RFO in consultation with the Conservator of Forests of the circle prepare the working plan. Once the working plan is approved, it is incumbent upon the owner of the forest to manage the forest following the terms and condition of the working plan. If the government is satisfied that the conservation of any private forest should not be left to the owner thereof, it may, by a notification, direct that the control of such forest be vested in RFO for a specified period. Such forest shall be known as vested forest. A controlled forest is also a private forest over which the government obtains specific control for its efficient conservation and for afforestation of waste-land. The Ordinance declares certain acts as prohibited in the vested or controlled forest that, though compatible with the spirit of protection and conservation, requires further clarity in terms of species protection, specific conservation needs and values from environment, biodiversity, economic, scientific point of view.

The highlights of the National Forestry Policy, 1994 are as follows-

- Special afforestation programs will be taken in every city of the country under the auspices of the government in order to prevent pollution of environment in the densely populated area. Municipal and town and other relevant authorities will take concerted efforts in implementing this program. Attempts will also be taken to ensure tree plantation/afforestation while plans are made in respect of residential areas.

- Massive afforestation programs in the tenurant hilly areas of unclassed state forests areas of Rangamati, Khangrakhare and Bandarban will be taken under the auspices of the government and private initiatives. The participation and rehabilitation of the local jum cultivation will be ensured while implementing this program. This will be done under the auspices of the Ministry of land in cooperation with the local government by keeping the land ownership right in tact.
- Because of the scarcity of forestland the state owned reserved forest cannot be used for non-forestry purposes without the permission of the head of the government.
- A large number of tribal people live around a few forest zones. Since the ownership of land under their disposal is not determined they grab the forestland at will. The policy proposes that they will be imparted ownership of certain amount of land through forest settlement process.

Notably the policy acknowledges the participation of tribal people. However, no existing laws provides opportunity for public consultation and settlement of existing rights except there mere provision of forest settlement process which is again restrained by bureaucratic procedural delay.

It is thus apparent from above analysis that the regulatory regime on environment in Bangladesh does not always reflect the progressive values of modern day governance. Instead, administration here is centralized that follows top-down approach and hardly involves people in the decision making process. Coupled with the compelling factors of over population and scarcity of economic resources, arbitrary resource allocation and maladministration are leading to continued degradation of natural resources and increased poverty for the marginalized that has direct linkage with limited or no access to resources.

Similar, if not worse has been the case of the millions of ethnic minority in Bangladesh who habitually live in or around forests and earn their livelihoods from the forest eco-system for decades. Exercising jurisdiction under the colonial laws and stepping into the shoes of the colonial rulers, the State, may not out of malice but due to inhering the legality, has most arbitrarily established its control over the forests and sought to transfer the 'sense of ownership' of the ethnic group in favour of a most inaccessible colonial bureaucracy. For about 80 years, such police management of the forests has brought just two results: gradual eviction of the ethnic minority from their ancestral lands leading to deep rooted tensions amongst the state and these custodians of resources, and depletion of forests.

On the face of gradual degradation of the forests, the administrators could not but bring a few changes in the management system to ensure peoples' involvement in the decision making process. As such the notion of 'social forestry' got legal recognition in the year 2002. Despite its limitations, this is an approach that has for the first time, emphasized on the need of involving people in the management of forest, recognized the service providing role of forest for the community and to some extent empowered people so as to create a scope for accessing the forest bureaucracy.

However, the success of this mode of 'social forestry' has been limited to strip cultivation and homestead afforestation. Though a mode of participatory management, 'social forestry' has not been able to address the long standing conflicts over ownership or management of forests in so far as the ethnic or local community is involved. Additionally, the benefit sharing mechanisms, governance structures, land ownership, selection of species, role of IFIs and all have been some of the most contentious issues that question the validity and sanction of 'social forestry' as a sustainable mode of forest management ensuring transparency and accountability and reflecting peoples' aspiration.

The Sal forest lying in the districts of Tangail and Mymensing, classic example where all existing management practices of the government failed. The government initiated the process of declaring the forest as 'reserve', but could not finalize the same due to resistance from local ethnic group. Eventually the government could not finalize the various claims of the people over the forests and hence the forest was never managed as 'reserve' although the process remains pending for more than 25 years. Substantive part of forest was then declared 'national park', a decision that curbs peoples' rights and access but one that has come without any consultation with the local people. As a result, local people have always declined to accept the same. Again, part of the so-called 'national park' was purported to be declared 'eco-park' (a notion that has no legal sanction) against which resistance rose to such a height that incident of killing of ethnic minority (2002) took place. Ever since, every time the government wanted to construct wall around the forest in the name of developing eco-park, the same was halted due to resistance from local people. Such resistance and the shrinkage of the forest to only 6,000 acres has prompted the government to form a committee to identify the nature of local claims over the forests and suggest a model of participatory forestry to regenerate the forests. Though yet to take a final shape, this initiative has created a very positive sensation in the concerned community as it is already leading to bringing the gap between the local people and the administration, creating a scope for recognizing legal rights of the community over the forests and true participation in the forest management through innovative 'community forestry'. If successful, this model can be replicated in the other forest areas of Bangladesh where around 30 ethnic minority groups are living without any legal recognition of their right over forest.

In this regard the experience of Nepal and India can help the implementation of inclusion of local people in protecting the forest and thereby guide the Bangladesh government to introduce new laws that creates rights for the local inhabitants and indigenous people to live in and assist the protection and development of forest. It is noted that though in India 'Scheduled Tribes and Other Traditional Dwellers (Recognition of Forest Rights) Act, 2006 has been

criticized by environmental groups stating that by including the Traditional Dwellers the original objective of the Act has been compromised and forest dwellers usually do not take livelihood at forest by choice but due to their occupation in forest land.

PROPOSALS:

In light of the above experiences, Institute of Hazrat Mohammad (SAW) proposes the following:

1. The government has to take initiative to introduce new laws to accommodate, validate public participation on forest protection, particularly, give legal rights to the indigenous people living the forests for generations as the indigenous people are living in two of the countries major forests.
2. Cut-Off Date (a date from which a person is resident in that forestry and thereby can be identified regarding his entitlement for legal rights) should be considered to identify a persons legal right, particularly non tribal people.
3. Providing legal rights on forests should not be accessible to forest dwellers who merely live beside the forest and depend on the forest for livelihood though this may be allowed only on a case to case basis subject to fulfilling criteria which may include necessity and interests of the forest. It should be noted that, unlike non tribal forest dweller, tribal have emotional, psychological and cultural attachments with the forest and they have lived there for generations.
4. The status of forests controlled by government Forest Department should be strictly monitored by a National Committee every year upon physical verification. The officer in charge of a particular area should

be responsible for any unexplained (except natural disaster) demolition or destruction of forest under his control. In this regard it should be noted that the recent discoveries by Anti Corruption Commission of enormous amount of wealth by forest officials is alarming and also explains one of the key factors for decrease of forest land.

5. Personal wealth of forest officials and their family assigned at particular forests should be monitored by a special division of Anti Corruption Commission.
6. Activities of Micro-Finance projects should be introduced for people living beside forests to encourage use of efficient energy, like bio-gas and thereby decrease the use of fire wood.

Alongside the survival challenges and the long history of deprivation of the indigenous and ethnic people due to colonial rule, a successful model for forest management in a country like Bangladesh shall also consider the issue of carbon sinks and hence the potential stakeholders may go beyond the conventional ones to transmit the results in other forest area for their essential ecological service to the global community.