POLICY, LAW AND ADMINISTRATION FOR PROTECTED AREA MANAGEMENT IN BANGLADESH

Task no.:
USAID Contract no.: 388-C-00-03-00050-00

POLICY, LAW AND ADMINISTRATION FOR PROTECTED AREA MANAGEMENT IN BANGLADESH

Prepared for
Nishorgo Support Project

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March 2005

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Concept of Protected Areas

In the year 252 B.C. the Emperor Asoka of India passed an edict for the protection of animals, fish and forests. This may be the earliest documented instance of the deliberate establishment of what we today call protected areas, but the practice of setting aside sacred areas as religious sanctuaries or exclusive hunting reserves is much older and the tradition has been continued in many widely different cultures to the present day. In 1084 A.D., for instance, King William I of England ordered the preparation of the Domesday Book - an inventory of all lands, forests, fishing areas, agricultural areas, hunting preserves and productive resources of his kingdom - as the basis for making rational plans for the country's management and development. The modern concept of conservation - the wise maintenance and utilization of the earth's resources - is no more than the combination of these two ancient principles: the need to plan resource management on the basis of accurate inventory; and the need to take protective measures to ensure that resources do not become exhausted. The establishment and management of protected areas is one of the most important ways of ensuring that the world's natural resources are conserved so that they can better meet the material and cultural needs of mankind now and in the future. In view of rapid development and population increase in many tropical areas of the world, and the great speed with which natural resources are being depleted, there is considerable urgency in establishing adequate protected areas if we are to achieve the objectives of the World Conservation Strategy (MacKinnon *et al.* 1986). This paper reviews overall policy; legislation; administration; and peoples participation issues in protected area management of Bangladesh.

Protected Areas in Bangladesh

Many authors recognize several different types of protected areas in Bangladesh. Examples are:

a) Botanic Gardens (e.g. Baldha Garden and National Botanical Garden in Dhaka), Eco-parks (e.g. Sitakund Eco-park in Chittagong, Safari Park at Cox'sbazar, Madhabkund Eco-park in Sylhet) which are established and managed as such, but they are not declared under any legal provision;

b) Reserved Forests and Protected Forests as declared under the Forest Act, 1927;

c) Game Reserve, National Park and Wildlife Sanctuary as declared under the Bangladesh Wild Life (Preservation) Order, 1973; and

d) Ecologically Critical Areas (ECA) notified under the Bangladesh Environment Conservation Act, 1995.

In absence of a flawless definition of proteceted area, it is a general conviction that protected areas are designated and established in accordance with a formal legal system. There are 16 protected areas in Bangladesh declared under the provisions of the Bangladesh Wild Life (Preservation) Order, 1973. These are: eight National Parks (IUCN category V), namely, Bhawal, Modhupur, Lawachara, Himchari, Nijhum Dweep, Kaptai, Ramsagar and Medha Kachsapia; seven wildlife sanctuaries (IUCN category IV), namely, Rema-Kalenga, Chunati, Pablakhali, Char Kukri Mukri and Sundarban East, Sundarban West and Sundarban South; and only one game reserve

(IUCN category VI), known as Teknaf Game Reserve. Private Game Reserve is nonexistent in Bangladesh.

Policy matters relating to protected areas

The basis for responsive legislation and administrative authority for protected areas lies in national policy on resource conservation and development. The most pertinent portion of the National Forest Policy, 1994 that has bearing on protected area management is as follows:

- Attempts will be made to bring about 20% of the country's land under the afforestation programs of the government and private sector by year 2015 by accelerating the pace of the program through the coordinated efforts of the government and NGOs and active participation of the people in order to achieve self reliance in forest products and maintenance of ecological balance.

- The priority protection areas are the habitats, which encompass representative samples of flora and fauna in the core area of National Parks, Wildlife Sanctuaries and Game Reserves. Attempts will be made to increase the amount of this protected area by 10% of the reserved forestland by the year 2015.

- Inaccessible areas such as slopes of the hills, fragile watersheds, swamps etc. will be identified and kept as protected forests.

- The areas under the reserved forest, which have been denuded or encroached, will be identified. Afforestation in these lands will be done through people's participation. In this regard, the use of agroforestry will be encouraged. NGOs will have opportunities to participate in this program. Side by side, the lands in Chittagong and Sylhet, which were allocated to different persons and institutions for developing the tea gardens and still remain unutilized and uncultivated will be identified and used for tree plantation and afforestation.

- Ecotourism, related to forest and wildlife, is recognized as forestry related activity, which will be promoted taking into consideration the carrying capacity of nature.

- There will be massive campaign through the government and non-government media for raising consciousness among the people regarding afforestation and conservation, and use of forest resources.

- Strengthening educational, training and research organizations will support the implementation on National Forest Policy. This will contribute to forestry sector development.

- Laws, rules and regulations relating to the forestry sector will be amended and if necessary, new laws and rules will be promulgated in consonance with goals and objectives of National Forestry Policy.

Legal aspects of protected area management

Laws are of two kinds. Moral laws which by and large govern the social conduct of a society and codified laws which to a large extent reflect and adopt the moral laws of the society. Codified laws have the sanction resulting in punishment for breach of such laws (Panlwani 1997). The question of procedural laws and substantial laws are also pertinent, where the latter being codified laws have the provisions for punitive measures, both pecuniary and physical, for breach of such laws. Many Acts, Ordinances, Presidents Orders, Rules, Policies and administrative orders pertaining to management and control of forests, environment, wildlife and protected areas are in force in Bangladesh. Some of which are special and some are general laws. Further details are available elsewhere (*e.g.* Banik 2003; Farooque and Hassan 1996; Farooque 1997; Rahman 1997; Rahman 2000).

A sound and lasting protected area program requires careful, realistic deliberation to ensure the existence of adequate legal strategies and institutional arrangements (MacKinnon et al.1986). The Constitution of the People's Republic of Bangladesh does not have any expressed provisions for the protection of wildlife and forests (Rahman 1994). “Although we do not have any provision like Article 48A of the Indian Constitution for protection of environment Articles 31 and 32 of our Constitution protect right to life as a fundamental right. It encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which, life can hardly be enjoyed. Any act or omission contrary thereto will be violate of the said right to life” [48 DLR 1996].

The legal status of land designated as a protected area is a critical preliminary consideration which may require different approaches in different countries. In Bangladesh invariably all the protected area declared under the Bangladesh Wild Life (Preservation) Order 1973 are 'reserved forest' declared under the Forest Act, 1927.

The Bangladesh Wild Life (Preservation) Order, 1973 (President’s Order 23 of 1973) must be viewed as the first comprehensive legislation for control and management of wild animals including its habitat. The Bangladesh Wild Life (Preservation) Order, 1973 was amended twice, once on 17 July 1973 and lastly on 12 February 1974 (*see* Rahman 1997) (*see* Banik 2003; Rahman 1997). The review of definitions and process of declaration of protected areas elaborated in the said Order is presented below:

The Bangladesh Wild Life (Preservation) Order, 1973 (President’s Order 23 of 1973) [As amended up to February 1974 by the Bangladesh Wild Life (Preservation)(Amendment) Act, 1974 (Act No. XVII of 1974)]

WHEREAS it is expedient to provide for the preservation, conservation and management of wildlife in Bangladesh;

NOW, THEREFORE, in pursuance of paragraph 3 of the Fourth Schedule to the Constitution of the People's Republic of Bangladesh, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order: -

Article 2(c): "Game Reserve" means an area declared by the Government as such for the protection of wild life and increase in the population of important species wherein capturing of wild animals shall be unlawful.

Article 2(h): "National Park" means comparatively large area of outstanding scenic and natural beauty with the primary object of protection and preservation of scenery, flora and fauna in natural state to which access for public recreation and education and research may be allowed ;

Article 2(i): "Private Game Reserve" means an area or private land set aside by the owner thereof for the same purpose as a game reserve and declare as such under Article 24 ;

Article 2 (p): "Wild Life Sanctuary" means an area closed to hunting, shooting or trapping of wild animals and declared as such under article 23 by the Government as undisturbed breeding ground primarily for the protection of wild life inclusive of all natural resources, such as vegetation, soil and water.

Article 23. *(1)* The Government may, by notification in the official Gazette, declare any area to be wild life sanctuary.

(2) No person shall —

(i) enter or reside in any wild life sanctuary ; or

(ii) cultivate any land in any wild life sanctuary ; or

(iii) damage or destroy any vegetation in any wild life sanctuary ; or

(iv) hunt, kill or capture any wild animal in any wild life sanctuary or within one mile from the boundaries of a wild life sanctuary ; or

(v) introduce any exotic species of any animal into a wild life sanctuary ; or

(vi) introduce any domestic animal or allow any domestic animal to stray into a wild life sanctuary ; or

(vii) cause any fire in a wild life sanctuary ; or

(viii) pollute water flowing in or through a wild life sanctuary :

Provided that Government may, for scientific purposes or for aesthetic enjoyment or betterment of scenery, relax all or any of the prohibitions specified above.

(3) The Government may declare any area to be a national park where the following acts shall not be allowed, namely : —

(i) hunting, killing or capturing any wild animal in a national park and within the radius of one mile outside its boundary ;

(ii) firing any gun or doing any other act which may disturb any wild animal or doing any act which may interfere with the breeding places of any wild animal ;

(iii) feeling, tapping, burning or in any way damaging or destroying taking collecting or removing any plant or tree therefrom ;

(iv) clearing or breaking up any land for cultivation, mining or for any other purpose ;

(v) polluting water flowing in and through the national park :

Provided that the Government may, for scientific purposes or for betterment of the national park or for aesthetic enjoyment of scenery or for any other exceptional reasons, relax all or any of the prohibitions specified above.

(4) Construction of access roads rest house and hotels and provision of amenities for the public shall be so planned as may not impair the primary object of the establishment of a national park.

(5) The Government may declare any area to be a game reserve and allow hunting and shooting of wild animal under a special permit wherein the maximum number of the wild animals to be killed and the area and the duration for which such permit shall valid shall be specified.

(6) Such alterations in the boundaries of wild life sanctuaries, national parks and game reserves may be affected as the Government may approve.

Article 24. *(1)* Where the Government is satisfied that an area of private land has been dedicated by its owner to the same purposes as a game reserve, the Government, on application of the owner, declare, by notification in the official Gazette, such area to be a private game reserve.

Ecologically Critical Areas

In pursuance of Section 5 of The Bangladesh Environment Conservation Act, 1995, the Government has declared some wetlands of the country as ecologically critical Areas (ECA) for the protection of natural environment and sustainable environmental management, for example, St. Martin's Island, Hakaluki Haor, Tanguar Haor, Marjat Baor and Gulshan-Baridhara Lake. All activities that may deteriorate the environment further are prohibited in these areas (DoE 2002).

The Bangladesh Environment Conservation Act, 1995 (Act No. 1 of 1995)
(As amended up to January 2002 by Act No. 9 of 2002)

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5. Declaration of ecologically critical area. — (1) If the Government is satisfied that an area is in an environmentally critical situation or is threatened to be in such

situation, the Government may, by notification in the official Gazette declare such area as an ecologically critical area

(2) The Government shall, in the notification published under sub-section (1) or in an separate notification, specify the activities or processes that cannot be initiated or continued in an ecologically critical are.

International Conventions

Bangladesh is a signatory to some international conventions (Islam 1996), which have bearing on protected areas. These conventions are:

1. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The purpose of CITES is to protect certain endangered species from over-exploitation by means of a system of import and export control.
2. Convention Concerning the Protection of the World Cultural and Natural Heritage. The purpose is to establish an effective system of collective protection of the cultural and natural heritage of outstanding universe value, organized on a permanent basis and in accordance with modern scientific methods.
3. International Plant Protection Convention. The objective is to maintain and increase international cooperation in controlling pests and diseases of plants and plant products, and in preventing their introduction and spread across national boundaries.
4. Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention) to stem the progressive encroachment on and loss of wetlands now and in the future, recognizing the fundamental ecological functions of wetlands and their economic, cultural, scientific and recreational value.
5. Convention on Biological Diversity (CBD) to conserve biological diversity, promote the sustainable use of its components, and encourage equitable sharing of the benefits arising out of the utilization of genetic resources.

Administrative matters relating to protected areas

Re-organization of the Forest Department of Bangladesh (MoEF 2001) created an independent wildlife Management and Nature Conservation Circle. According to the re-organization a Conservator of Forests being head of the Circle will work under Chief Conservator of Forests. The Conservator of Forests will supervise and coordinate matters related to ex-situ and in-situ conservation of wildlife (flora, fauna, migratory birds etc.) and environmental management functions of the country. He will administer, supervise and control the functions of 4 Wildlife Management and Nature Conservation Divisions and 2 Botanical Garden (MoEF 2001). However, all the Wildlife Management and Nature Conservation Divisions are not yet fully operated. As many scientific and social information are being improved about the management needs of protected areas, administrative structures at field level may be developed and equipped for the technical demands of the Divisions entrusted with management of protected areas.

Local People and Protected Areas

The success of management depends very much on the degree of support and respect awarded to the protected area by neighboring communities (MacKinnon *et al.*1986). While there is a growing consensus that community participation in protected area management is needed and desirable (e.g. Ali and Habib 1998; Rosario 1997), opinions regarding how to establish collaborative management and what form it should take remain at odds (Poffenberger 2000). It is difficult to involve the local communities in protected area management without giving them any benefit or providing them with alternate source of income, who are dependent on protected areas for their sustenance. There are many ways in which local people can benefit from protected areas, including utilization of some resources from certain protected areas and buffer zones, the preservation of traditional rights and cultural practices, and special preference for local residents in employment or social services. Nevertheless, there are limits that must be placed on explorative uses if protected areas are to fulfil their primary protective functions. Planners and Managers must know where to draw the line. Experience shows that codified laws are no longer the best solution to protect the protected areas, implementation of social laws through people's participation in protection of protected area is inevitable. The Nishorgo Support Project aims at protecting the selected protected areas largely by moral or social laws and providing technical support to the Forest Department.

Conclusions

Various categories of protected area call for different levels of protection and utilization. Involvement of local community in protected area management is inevitable. The Forest Department as entrusted with should be well equipped to protect and manage the protected areas. The national policy on protected areas should be adopted to recognize that protected areas are the habitats of flora and fauna, which are all vital ingredients to the people's existence and important components of the country's ecological balance. The nation should attempt to increase the territory of protected area and ensure its sustainable management for the present generation and for the generation to come. The Nishorgo Support Project can crown the glory of success in the field of protected area management if it considers the matters in-depth that govern the protected area management in Bangladesh.

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