

Policy and Legal Framework

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The Nishorgo Support Project (NSP) aimed to pilot a co-management approach for select Protected Areas (PAs), while ensuring the sustainability of that pilot by facilitating changes in the policy and legal framework to be more explicitly supportive of co-management. The Project design identified the preparation and approval of PA management plans as a likely area of policy intervention, but deliberately did not identify other policy or legal changes, leaving leeway to the Project team to do so. With the Project underway in 2003, the team identified in its first work plan two immediate policy-oriented priorities: support to preparation of framework Government Project documents¹, and the undertaking of a visioning process for PA co-management with the Forest Department.

These two processes (the vision and the Government project paper preparation) would identify the specific policy and legal activities to be pursued by the Project. Although some other policy issues were added subsequently, policy activities generally remained close to the agenda set out in the first year.



Arrival kiosk at Satchuri National Park, redesigned in 2006 with ticket counter and store for arriving tourists. Confusion about the rights of CMO to benefit from sales inside PA boundaries remained an intractable policy issue through the project period. [Philip J. DeCosse]

¹ In the Bangladeshi government investment process, official project documents such as the “Development Project Proforma (DPP)” are approved in concept by a committee chaired by the Prime Minister and in detail by the appropriate Minister, and in hence where they introduce new approaches can be considered to be equivalent to policy statements.

Policy and legal interventions supported by a project such as Nishorgo could take place in many ways, so a schematic understanding of the options for policy intervention in the Bangladesh context is worth noting. Here we include under the term “policy” any specific or set of possible actions called for or allowed by the Government in a written document formally approved by a representative of the Government acting in an official capacity. This is a broader definition than the understanding of “policy” in Bangladesh meaning very specifically a policy statement – such as the Forest Policy of 1979, and that of Merriam-Webster (2010) which defines policy as: “a high-level overall plan embracing the general goals and acceptable procedures especially of a governmental body”. In the Bangladesh context, “policy” includes a wide range of policy or legal interventions that range from general policy directions to the detail of policy in implementation, most notably the following:

- Acts, laws, treaties and other legal documents: Formally approved by vote by the Jatiya Sangsad (parliament).
- Rules: Prepared by technical ministries under the framework of enabling legislation and reviewed by the Ministry of Law, but ultimately issued and signed by the concerned ministry. The Social Forestry Rules are one such example.
- Government Orders: Prepared at the ministerial or departmental level, signed by the relevant Minister, and published in the Government Gazette.
- Project Concept Papers (PCP): Brief concept papers prepared by departments and ministries as a precedent to later full project designs.
- Development Project Proforma (DPP): Detailed project design documents that follow on from a PCP and are approved by the relevant minister and by the Executive Committee of the National Economic Council (ECNEC), chaired by the Prime Minister.² The DPP provides the most detailed blueprint for what a given project will undertake. DPP budgets are fixed for the full project period and have some scope for revision. The objectives and activities detailed in a DPP are rarely changed at all, even when the DPP is modified.
- Minuted decisions of Project Steering Committees: Incorporation of a decision in the minutes of a formally constituted project steering committee (each government project has one) represents a statement of the Government’s intentions or position, and thus represent a policy direction.
- Management plans: For the Reserve Forests, including the forest Protected Areas, management plans are prepared by the Forest Department and submitted for official approval by the Secretary of the Ministry of Environment and Forests (MoEF), and thereby define policy implementation in those areas.

² The government system distinguishes between project design documents for technical assistance projects and those for investment projects.

- Strategies, Action Plans and other Ministry-led policy processes: The Government undertakes strategic planning processes as and when needed, and these processes often result in action plans or strategic statements that imply a policy direction of the Government.

This chapter reviews the major policy and legal framework activities undertaken by the Project, identifying starting assumptions for each of them and subsequent adaptations made during the project life.

Two policy issues are not treated extensively here, as they have been covered in other chapters in this book. Those topics include PA management planning, and preparation of the Government Order creating Co-management Committees and Councils.

Starting Assumptions and Subsequent Adaptations

Nishorgo Vision 2010

Just after the Nishorgo effort began in 2003, the Project Coordinator at the Forest Department and the Chief of Party began a dialogue within the Forest Department about the future directions and challenges of PA management, and that dialogue culminated in an agreement to develop a vision for PA management. The team set a target date for achieving the vision of 2010, or two years after the planned project completion date. The process and outcome would later be called Nishorgo Vision 2010.

This Vision was completed in draft form in early 2004, and was subsequently refined and vetted. After many revisions, it was presented for validation to the 2nd Nishorgo Steering Committee on February 9, 2005. It was subsequently circulated under cover of a letter from the Chief Conservator to all officers of the Department.

The visioning process served a number of useful purposes, primarily in helping to set the Nishorgo Program as a departmental program rather than a project activity, but also in fixing a subset of operational priorities, and then communicating those priorities to persons involved with the program. The Vision included clear recognition, for example, that the Department would need to place a priority on formally engaging the ethnic minority communities living in and around PAs in the co-management process. The Vision also clearly stated that PA management without formal participation would not be a viable option for the Department, in light of the economic and political interests of those



A visioning process within the Forest Department in 2003 and early 2004 helped in clarifying constraints and goals of an FD program beyond the project period, captured in the document "Nishorgo Vision 2010."

communities, individuals and industries keen to take advantage of the resources within PAs. This element of the Vision – that participatory governance would be a necessary part of future PA management – contrasted somewhat with a more common view in the Department and the Ministry of Environment and Forests at the time: that with sufficient financial resources, the Department would not have need to formally open PA management to participation.

Although the visioning process deepened and broadened understanding of the complex challenges of the Department in undertaking PA management, its reach and impact was less extensive than expected. The Project Steering Committee formally validated the Vision but did not champion this Vision. In subsequent Steering Committee meetings after its acceptance, no member of the Committee referred to it, this alone being evidence of its limited uptake by Committee members.

Within the Forest Department, acceptance of the Vision suffered from the lower status accorded the Wildlife Circle, and more generally to Protected Areas themselves. Most of the Departmental staff saw wildlife lands as being outside the main business of the Department, and did not at the time believe that PA management, nor co-management of PAs, would become increasingly important to the Department in the future. That lack of urgency within the Department certainly contributed to a more limited impact than was intended of the visioning process and the Vision 2010 document itself.

It is difficult to judge the long-term impact of the Nishorgo Vision 2010. Although it was discussed widely within the Department, and was led and by the then-Project Coordinator, it was not widely recognized as a central policy document by most Departmental staff even a short time later. Nevertheless, the Vision assisted in focusing a number of critical senior staff on the PA management challenge, and helped in building support at that level for the co-management agenda.

Project Concept Paper (PCP) and Development Project Proforma (DPP)

The Government of Bangladesh requires every development project (whether Government- or donor-financed) to complete a detailed Project Concept Paper (PCP) and then, if the project is approved, a full project paper (Development Project Proforma, or DPP).³ The detailed objectives, activities and outputs stated in these two documents determine what and how a project is implemented for the relevant Department and Ministry and those project beneficiaries and partners with whom a project works. The PCP or DPP may include specific mention of processes that deviate from normal Government operating procedures, but so long as they have been explicitly mentioned in these approved documents, they are normally allowed. The DPP in particular, once approved, becomes a blueprint for all activities under the project. Divisional Forest Officers (DFO) and divisional staff focus keenly on the budgets allocated to them in these documents, particularly for infrastructure development and forest plantation work. It was by reference to the PCP and later the DPP that Nishorgo was able to undertake a range of co-management activities that would not previously have been allowed on PA lands under FD authority.

³ The exact names of these concept and full project documents have evolved over the years since 2003, but we use these two terms (PCP and DPP) to describe the concept and developmental phases of project design.

Unlike many development projects in Bangladesh, the Nishorgo PCP and DPP had not been finalized before the project started, and this gave a space for negotiation and refinement of the co-management concept and what it meant in implementation. In the first year and a half of the project, the Nishorgo team at the Forest Department spent many hours drafting and re-drafting the technical activities and – more importantly – detailed budgets for the PCP and DPP. The DPP was not in fact completed and approved until 2005, although the process was begun in 2003.

Until the co-management concepts and implementation arrangements were included in the DPP and PCP, the FD and MoEF staff would not accept that such an approach would be pursued on Forest Department lands. Indeed it was the explicit language about the co-management approach in the PCP and DPP that opened the doors for preparation of the subsequent government order (GO). Similarly, the PCP and DPP provided the starting point for subsequent proposals on entry fee sharing (see next section), other means of sharing forest benefits, and support to revisions in the Wildlife Act and other policy interventions. Thus, the PCP and DPP were effective in creating entry points for policy or regulatory interventions.

These benefits however did not come without considerable cost. The most significant cost of the DPP system in general is the rigidity it introduces into the planning process. With project activities and budgets set in great detail in year zero for the subsequent five years – and changeable only by formal and time-consuming project document revision and approval – the opportunities for adaptive management are constrained.

The PCP and DPP helped advance the new co-management approach at the PA level. This was particularly evident in the reactions of the co-management participants at the PA level. Circulated copies of relevant DPP excerpts – translated into Bangla – made it clearer to PA participants that the FD had indeed made a formal decision to test a participatory model for the PAs.

FD staff would refer to copies of these documents regularly for guidance on both budgets and activities to implement under the project. For the Forest Department staff, however, adherence to the text of these documents was somewhat more rigorous when it came to budget allocations than when it came to language about supporting participatory PA management. This hesitation to follow the letter of the DPP arose in particular with respect to the local financial benefits sharing proposed in the DPP. As we shall see in the next section, the PCP and DPP provided a sound basis for putting in place entry fee benefits sharing for the PAs, but hesitations and a lack of clarity on how to implement the benefits sharing concepts slowed implementation of those provisions.

Benefits Sharing: Protected Area (PA) Entry Fees

The central policy challenge of Nishorgo was to ensure that benefits from PAs could be shared with those community members engaged in protecting them. As Nishorgo began, the common assumption was that this would mean communities benefitting from access to project inputs, particularly with the assistance of micro-finance and complementary economic activities. This was generally the view of the FD and the MoEF, who talked at the time of using these resources to create opportunities for the poor to benefit, thus reducing pressure on forest resources.

But the Nishorgo team (in particular the Project Coordinator, Chief of Party and USAID staff) believed from the beginning that the more sustainable source of long-term benefits to co-management participants would come from the forests themselves, and in particular from non-consumptive forest benefits, the most important of which was potential entry fees. The DPP explicitly directed that entry fees would be shared with co-management stakeholders:

“Forest revenue generated from PA including PA entry fee will be retained locally and reinvested in PA management and local community development efforts according to modalities and terms worked out by co-management committees established for the targeted PAs.” (Forest Department, 2005: 20)

Numerous sections in the same DPP provided a more general basis for sharing of benefits with co-management participants. DPP Objective 3 included this proposed Activity: “Develop rules or directives allowing diversion of revenue generated by the activities of Nishorgo Support Project to distribution among the stakeholders as a means of ensuring the long-term sustainability of the PA management program.” (26) While DPP Objective 4 included this expected Outcome: “Local participants in co-management agreements for PAs will capture a portion of the financial and economic benefits from the PAs.” (29)

In addition to the DPP text, the project team could make reference to the Social Forestry Rules as a precedent for direct sharing of benefits. Under those Rules participants receive a check for 45% of the value of timber felled from their plots at the time of auction, without the revenue being centrally collected and then redistributed.

With this groundwork laid down in the DPP, it should have been possible to get explicit policy approval and implement entry fee sharing in the PAs. But rapid approval was not forthcoming. From 2005 through 2009, the process of approving a policy to share PA entry fees went through multiple stages, with field implementation of the approved approach only taking place in 2009. The process of presenting and approving this critical policy framework for entry fees is reviewed in the remainder of this section.

The Logic and Case for Shared PA Entry Fees

The logic for sharing entry fees, and other proposed changes to the entry fee system, were grounded in the experience at the time from other countries, as cited in background memos and reports, where three broad trends were noted. A first trend included setting higher entry fees for foreigners than for nationals of the country in which the PA are found, while a second trend included the adjustment of entry fees to account for willingness to pay of visitors, costs of running the PA and the amenities provided at the PA.

A third trend saw more countries allowing communities to share directly in entry fee benefits. Two countries – Madagascar and Indonesia – were noted and discussed in particular as evidence of this trend. Madagascar adopted a formal policy requiring that 50 percent of PA entry fees be shared with the neighboring communities. From Indonesia, the co-management model tested at Bunaken National Park received particular attention for its relevance to Bangladesh. The Bunaken case has received international attention from researchers and conservationists, and the co-management model pursued there has won a number of international awards, including

the 2003 British Airways Tourism for Tomorrow Award, considered by many to be the most prestigious award in ecotourism.

These broad trends – the team pointed out in its background memos to the Steering Committee and the Secretary, MoEF – stood in contrast to the situation at the time in 2005 in Bangladesh.

PA Entry Fees in Bangladesh in 2005

A benchmark comparison undertaken by IRG at this time found that the PA entry fees in Bangladesh were lower than any of the eight countries included.⁴ In 2005 the fees charged to enter select PAs in Bangladesh were:



In light of the high demand to visit forest areas, even where forests are not well maintained, reviewing entry fee policy was a priority. [Philip J. DeCosse]

- Bhawal National Park had a 6 Taka entry fee, or USD 0.09 (9 cents). At the time, Bhawal was receiving more than 100,000 visitors per year.
- Mirpur Botanical Gardens had a 5 Taka entry fee, or USD 0.075 (7.5 cents), with more than 1 million visitors per year.
- Dulahazara Safari Park and Sitakunda Eco-Park had entry fees of 10 Taka, or USD 0.12.

At the five Nishorgo pilot PAs, no entry fees at all were mandated or being collected. Indeed, the only other PAs at which fees were collected were the Sundarbans Reserve Forest and Sanctuaries, the Banshkhali Eco-Park (bordering Chunati Wildlife Sanctuary), and Sitakunda Eco-Park.

In all of these cases where fees were collected (other than the Sundarbans), the entry fee concession was leased out to a private firm based on an annual auction of those collection rights. The Government (Treasury) would receive the income from the annual auction payment, and anything else the concessionaire could earn on top of that represented profit. This leasing out of concessions for entry fee collection was managed by the Forest Department and overseen by the MoEF.

In 2006, only one willingness-to-pay study had been conducted within the PA system, for Bhawal National Park (Islam 2003). Based on interviews and economic analysis of 80 randomly selected households, she found that 74% of those interviewed were willing to pay 10-15 Taka given the current state of the PA, while 24% were willing to pay more. Based on

⁴ Countries included in the benchmark comparison were Nicaragua, Costa Rica, Belize, Uganda, Tanzania, Kenya, Madagascar and the Seychelles. The lowest entry fee for nationals of the stated countries was 1USD (Madagascar), this being considerably higher than any of the entry fee levels then in place in the Bangladeshi PA. The lowest rate then being charged for foreign nationals was 4USD (Nicaragua and Belize).

analysis of data in her report, the Nishorgo Team argued that an increase of 4 Taka beyond the actual Bhawal entry fee of 6 Taka would generate an estimated additional 4 lakh Taka (a little under USD 6,000) per year, with little dissatisfaction or loss of visitors. However, in that study 92% of respondents stated they were willing to pay more than Tk 15 if basic facilities were improved.

Rough estimates of visit costs were also made in support of higher entry fees. A visitor who goes from Dhaka to Srimongal to visit Lawachara National Park, it was argued, would have already expended considerable resources to get there and pay for a hotel (a minimum of 120 Tk for travel and 300 Tk per person for hotel, plus food). In light of the beauty of the forest and the services available there, it was considered unlikely that a visitor would object to payment of, say, 50 Taka to enter the PA.

Later in 2008 a Nishorgo study (Haque and Bakht 2008) estimated willingness-to-pay at the pilot Nishorgo sites and also estimated demand curves for PA visits, using data from visitors to Lawachara NP, Satchuri NP and Teknaf GR. The study found low average willingness-to-pay levels of 20 Taka for Lawachara NP (precisely the entry fee proposed in 2006), and about 15 Taka for Satchuri NP and Teknaf GR. In addition, they found notably different demand curves for the three PAs, and different responses in PA visitation with increased entry fee levels. Understanding the demand for individual PAs and responsiveness of visitors to entry fees provides a necessary base for greater segmentation within nature tourism and PA visits, and should be used to help in a more refined and differentiated PA pricing strategy in the coming years.

Initial Entry Fee Proposal in 2006

In spite of the foregoing logic and arguments for setting entry fees for Nishorgo pilot areas at a higher level than those charged for other sites of Forest Department, the Forest Department understood that, due to political sensitivities that might result from making entry fees “too high”, no Bangladeshi entry fee level should exceed 20 Taka. Ultimately this perceived entry fee ceiling was a more significant determinant of the final proposed entry fee than any economic logic or studies.

The Forest Department made its first formal request for approval of a new entry fee policy at the fourth meeting of the Nishorgo Steering Committee on April 24, 2006. The proposal included entry fees for four PAs of 20 Taka for adults, 10 Taka for students and minors, and USD 5 for foreigners. Lower rates were proposed for Chunar Wildlife Sanctuary, at 10 Taka for adults, 5 Taka for students and minors, and USD 3 for foreigners, in recognition of the relatively poorer state of conservation of that Sanctuary. The presentation to the Steering Committee included the following wording for the proposed uses for collected entry fees:

- “Compensation to participants for losses in reduced extraction from PA (e.g., through community patrolling and initiation of other PA-related income-generating activities)
- Ensuring the PA remains attractive to visitors through cleaning activities and provision of services such as toilets (these expenditures not to exceed 10% of annual expenditures from fee funds)

- Printing of brochures and related materials that can generate income for the Committee and local people
- Reinvesting this money in PA-related activities that will generate additional funds for PA management
- Payment of basic operational costs for the secretarial and administrative support activities of the Committee.”

At that same Steering Committee presentation, these were the proposed modalities for uses of the entry fee revenue, exactly as they were presented to the Committee:

- “A separate bank account will be maintained to manage the money
- Entry fee to be realized through a receipt and receipt books
- At end of each month, 50% of total realized revenue to be passed to the Government as forest revenue
- The Committee will prepare an annual plan for spending of the Fund and will take approval from the Co-Management Council and from respective DFO
- Monthly financial reports to be posted publicly and forwarded to DFO
- Each year the accounts statement will be audited by either an institution or person as directed by the Advisor of the Committee
- Fund will be managed jointly by ACF/Range Officer and Committee Treasurer
- Note that Government is not giving up any revenue in this proposal, since entry fee is new revenue”.

The tone of this presentation highlighted the perceived concern that the Steering Committee would pay special attention to the need to maintain revenue from Government lands. The final highlighted and underlined phrase in the presentation makes this emphasis clear (it was underlined in the presentation to the Steering Committee also), and one can hardly overstate the importance that this revenue focus played in determining whether Co-Management Organizations (CMOs) should have access to a share of the entry fees as proposed in the DPP.

Indeed, at this 2006 presentation, the Forest Department’s Project Coordinator determined that it was too risky even to explicitly state that half of the entry fees should be retained by the community. The primary objective of that presentation was to obtain support to proceed with preparation of modalities for the entry fee sharing.

Back and Forth in 2007 and a Specific Modalities Proposal

In late 2006 and again in early 2007, the FD, through the Ministry of Environment and Forests, made proposals to the Ministry of Finance that would both fix entry fees for the Nishorgo pilot

sites and allow for retention of 50% of those fees by Government-recognized CMOs. On both occasions, the Ministry of Finance issued orders to implement entry fees as requested, but ignored the issue of local retention.

Recognizing the importance of having communities receive half the entry fees at point of transaction – and without waiting a year for the money to go back through the central Treasury – the Nishorgo team did not accept these proposed solutions, and continued working instead for the proposed sharing at point-of-transaction as included in the DPP language. In light of the similar process of sharing revenues with beneficiaries in place for Social Forestry, the Nishorgo team calculated that this precedent and the need to directly benefit communities argued for continued efforts to obtain approval for the original proposal.

The Forest Department did not want to begin charging entry fees or undertaking other benefits sharing activities so long as none of the generated revenue would stay at the CMO level. The FD therefore did not implement the entry fee plan, as it continued efforts to obtain approval for benefits sharing.

In early March 2007, the Forest Department organized a briefing to the Advisor responsible for environment and forests (during the period of the caretaker government) concerning the entry fee retention issue. The Advisor was briefed about the problems that would arise if PA entry fees at co-managed sites were all returned to the Treasury for later distribution back to the CMOs. The briefing note highlighted the following four reasons for allowing revenue to be retained at the PA level:

- (1) *The urgent need for co-management benefits to reach those directly involved in community patrolling and protection of forests.* The internal briefing memo noted that: “These community patrollers are generally among the poorest citizens in the country... [They] are too poor to wait a year before getting reimbursed.”
- (2) *Rapid growth in visitation and lag time in revenue return.* The number of visitors to the PA were rising rapidly, and the briefing noted that with a one year lag between collection of entry fees and return of half of those fees to the CMOs, the amount returned would not be sufficient to address the growing needs at the PA level.
- (3) *Impact of delayed revenue return on provision of nature tourism services.* With such lag time and delays, the CMO incentive to provide support services to the PA would be compromised, and there would be a likely impact on the quality of PA conservation and management.
- (4) *Discouragement of the new Co-Management Organizations.* The new procedures would require tight control by the Divisional Forest Officers (DFO), and this level of control might discourage the CMO from taking the leadership roles expected of them in the co-management Government Order and other policy instruments.

Between March and July, 2007, a number of additional efforts were made to make the case to allow entry fee revenue to be held at CMO level after collection, rather than being routed through the central Treasury and back through the FD. None of these efforts succeeded, and when, after an intervention at the level of the Joint Secretary, Ministry of Finance, the

modality for local retention was still not approved, the Nishorgo team decided to proceed and develop modalities for moving entry fees through the Government accounts and then back to communities.

To that end, a noted finance and accounting expert was engaged by Nishorgo to prepare the guidelines. By November a first draft had been prepared, and a final version of the guidelines was submitted to the Ministry of Environment and Forests by the FD at the end of 2007 (Rashid 2007).


Approval and Implementation during 2008 and 2009

The year 2008 saw the slow process of approving the entry fee retention guidelines, and also the initiation of entry fee collection at Nishorgo pilot PAs. The complexity of the collection process was much as the FD had predicted, and the time required to implement this contributed to waning interest and commitment of the CMOs during this period. Actual implementation of the entry fee collection and distribution process was not fully under way until 2009, after the end of the Nishorgo project.

Other Benefits Sharing Opportunities

In addition to entry fees, three other avenues were sought to modify the policy and regulatory framework to allow benefits sharing from the Nishorgo PAs:

- (1) Allocation of social forestry plots within buffer zones to Nishorgo co-management stakeholders, with an emphasis on ensuring that recipients of such rights were those directly patrolling or protecting the PAs.

<p>তারিখঃ ইং</p> <p> লাউয়াছড়া জাতীয় উদ্যান</p> <p>প্রবেশ পত্র</p> <p>বই নং: ক্রমিক নং:</p> <p>প্রাপ্তবয়স্ক জনপ্রতি টাকা ২০</p> <p>বাসস্থানসমূহ: লাউয়াছড়া জাতীয় উদ্যান সহ-বাসস্থানসমূহ কর্তৃক</p>	<p>সুপারভাইজার কপি তারিখঃ ইং</p> <p>লাউয়াছড়া জাতীয় উদ্যান</p> <p>প্রবেশ পত্র</p> <p>বই নং: ক্রমিক নং:</p> <p>প্রাপ্তবয়স্ক জনপ্রতি টাকা ২০</p> <p>দ্রষ্টব্য: ১। প্রবেশ দি অফারযোগ্য। ২। এই প্রবেশ পর শুধুমাত্র একবার প্রবেশের জন্য এবং একমাত্র ইচ্ছা অধিবেশন জন্য প্রযোজ্য। ৩। যত্নের সৌন্দর্য ও সুখকার্য নিয়ন্ত্রণকালী অধ্যক্ষের থেকে সংগ্রহ করুন। ৪। অসুস্থের গাইড হাওয়া অন্য কোন গাইড ব্যবহার করা যাবে না। ৫। নির্দিষ্ট স্থানে মাল্য-অবরোধ ফেলুন এবং শুধুমাত্র নির্দিষ্ট পথে গিয়ে ব্যবহার করুন।</p> <p>একটি স্বাক্ষরিত জনগণের অর্থনৈতিক কল্যাণে ব্যবহৃত হবে বাসস্থানসমূহ লাইসেন্স জাতীয় উদ্যান সহ-বাসস্থানসমূহ কর্তৃক</p>	<p>গ্রাহক কপি তারিখঃ ইং</p> <p>লাউয়াছড়া জাতীয় উদ্যান</p> <p>প্রবেশ পত্র</p> <p>বই নং: ক্রমিক নং:</p> <p>প্রাপ্তবয়স্ক জনপ্রতি টাকা ২০</p> <p>দ্রষ্টব্য: ১। প্রবেশ দি অফারযোগ্য। ২। এই প্রবেশ পর শুধুমাত্র একবার প্রবেশের জন্য এবং একমাত্র ইচ্ছা অধিবেশন জন্য প্রযোজ্য। ৩। যত্নের সৌন্দর্য ও সুখকার্য নিয়ন্ত্রণকালী অধ্যক্ষের থেকে সংগ্রহ করুন। ৪। অসুস্থের গাইড হাওয়া অন্য কোন গাইড ব্যবহার করা যাবে না। ৫। নির্দিষ্ট স্থানে মাল্য-অবরোধ ফেলুন এবং শুধুমাত্র নির্দিষ্ট পথে গিয়ে ব্যবহার করুন।</p> <p>একটি স্বাক্ষরিত জনগণের অর্থনৈতিক কল্যাণে ব্যবহৃত হবে বাসস্থানসমূহ লাইসেন্স জাতীয় উদ্যান সহ-বাসস্থানসমূহ কর্তৃক</p>
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Design of tickets sold to Lawachara National Park, 2008. Entry fee sharing from these fees began later, in 2009.

- (2) Permission for co-management stakeholders to undertake visitor or tourist service delivery within the boundaries of the PAs
- (3) Permission for co-management stakeholders to take part in and benefit from forest management and restoration activities within the PAs.

Each of these proposed activities represented a departure from the status quo for PA management since they each implied a more direct role for beneficiaries to receive revenues in cash or in kind directly from government PA lands. A review of efforts to formalize these benefits sharing modalities follows here.

Access to Social Forestry Plots for Patrollers and Other Stakeholders

Financing for social forestry was included in the project from the beginning. Under social forestry procedures, selected beneficiaries are given a “Participatory Benefits Sharing Agreement (PBSA)” which formalizes the prescribed rights to benefit from a (usually) one hectare plot over a period of 10 years. The precise guideline for allocation of those social forestry plots under Nishorgo was not made explicit in the DPP. With the final approval of the DPP in 2005 the first round of social forestry plot allocation was set to take place when the rains fell in approximately May of 2006. Under standard social forestry allocation procedures beneficiaries are identified by FD staff and proposed to an Upazilla level social forestry committee for approval. While certain criteria are met in the process of choosing potential beneficiaries, FD staff have considerable leeway in who they propose. During that first year of implementation, the Project Coordinator sent instructions through Conservators and DFOs that social forestry agreements should go to those involved in patrolling and other direct conservation activities.

In the 2006 season, however, out of about 30 hectares of social forestry plots, few were allocated to groups directly engaged in forest protection or conservation work. One exception was a group of men from the Tripura community at Satchuri National Park, but their plots were allocated on Reserve Forest land some 2 kilometers from the PA due to lack of appropriate buffer land any closer. Clearly, the logic of allocating these important and valuable benefits to those directly involved in forest protection had not yet been fully implemented.

In response to the shortcomings in implementation that occurred in 2006, the Nishorgo team developed modalities for a “Participatory Conservation Benefits Sharing Agreement (PCBSA)”. This proposal was modeled after the approved social forestry benefit allocation procedures then being formalized in the Social Forestry Rules, but included additional requirements intended to strengthen the link between receipt of the PCBSA and engagement in conservation work. Under the PCBSA model, social forestry plots would go to those directly involved in conservation activities, and would be predicated on the continued active involvement of those individuals or groups in ensuring conservation. It was thus a two part agreement: (1) social forestry plots outside the PA are allocated to patrollers or others directly involved in conservation; (2) in order to maintain the plots, the beneficiaries need to continue protecting the PA.

The PCBSA was written in both Bangla and English and was circulated to all DFOs for use at Nishorgo PAs. In order for it to have the strength of a formal and recognized procedure, it would need eventually to be included in an amended Social Forestry Rules. But in the interim, the FD Project Director circulated the PCBSA to all Nishorgo DFOs with a request that it be adopted for use in the 2007 allocation of social forestry plots. Extensive efforts were undertaken in the 2007 and 2008 allocations of PCBSAs to ensure that they went to those involved directly in the co-management and conservation process.

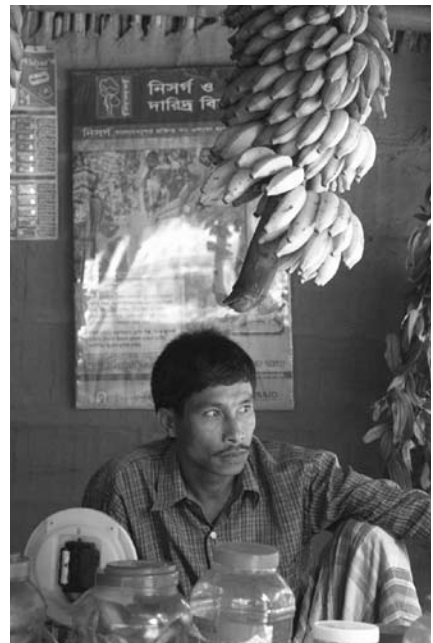
However, in spite of repeated orders by senior FD staff to allocate these benefits to co-management participants involved in conservation, the process was still not a standard part of FD PA management by 2008. This delay allocating social forestry plots to those co-management participants involved in patrolling and protection occurred for two principle reasons. First, the PCBSA did not have force of Government policy (DFOs often noted that in spite of the language of the PCBSA and the requests of the senior FD staff, they were not obligated to follow those requirements, since there had been no prior change to the Social Forestry Rules). Second, the authority of local FD staff members to allocate social forestry agreements to anyone of their choosing represents a significant power and opportunity. Under Nishorgo's PCBSA model, the agreements would automatically go to those already engaged in community patrolling and protection, removing the opportunity for FD staff to select beneficiaries themselves. This loss of authority made the PCBSA model less attractive to local FD staff.

One of the lessons from the process was that a formal change in power relations between local FD staff and communities would require an explicit policy and procedural basis. There existed sufficient hesitation and lack of understanding on the part of local FD staff that a more formal and specific requirement to implement social forestry through and with the CMO would be required. For this reason, work started later in 2008 on a revised set of social forestry rules.

Non-Forest Benefits Associated with the PA

In the same quest to ensure benefits for those directly conserving the PAs, the Nishorgo team also sought for CMOs to benefit from a number of non-consumptive economic activities associated with the PAs. In 2006 and 2007, the project tested such tourist-related visitor services as shops at PA entrances, management of student dormitories constructed by the project, and picnic site management at the edges of PAs. These services were put in place at all five PAs, although tourist service opportunities were less at Rema Kalenga Wildlife Sanctuary as it is relatively remote. In addition, community patrol groups were given access to management of fish ponds within PA boundaries at Teknaf GR and Satchuri NP.

In 2007, five of the eight CMOs requested Landscape Development Fund grants to construct permanent tourist shops structures at PA entrances. This proposal to construct permanent structures on PA lands opened up a debate within the FD about whether such benefits sharing should be allowed at all. The debate centered around the specific grounds for allowing non-government entities to make money from running business operations on



CMO requests to construct permanent stalls within the PA were not approved for lack of a policy framework. Temporary tea stalls operated by Community Patrol Groups, such as this one at Satchuri National Park, were later informally allowed to operate. [Sirajul Hossain]

government lands. The common understanding at the FD – and indeed among government staff in general – is that no revenue can be captured from government property that is not forwarded to the Treasury and accounted for as government revenue. In the case of the CMO-requested visitor kiosques, a private entity would be running a business on FD land without any financial benefit to the Treasury. Some in the debate accordingly argued that any exception to this standard practice would require explicit and formal declaration as policy, such as exists in the Social Forestry Rules for retention of revenue by social forestry beneficiaries. Per another argument in the debate, the force or authority of policy as stated in an approved DPP was not sufficient override this long-time revenue management policy of the government. In the end, the permanent tourist stall proposals were not pursued and were not constructed. (At the same time, at a few sites, non-permanent sales kiosques – typically made of rattan and bamboo – were still in operation. But FD staff felt that the approval of permanent, concrete structures required an additional level of authority.)

Although the tourist stalls were called into question, other tourist service operations and the fish ponds continued to operate and benefit communities. This continuity was achieved through the intervention and direct support of the FD's Project Coordinator and the then-CCF. Without their verbal encouragement to continue such initiatives with the CMOs, the Nishorgo experiment would have faced a serious setback.

CMOs have continued to benefit from such PA non-consumptive uses, but realization of opportunities for such benefits remains below the market potential. The CMOs are not yet confident that they can take new initiatives to improve service delivery, charge fees for such services and benefit from those actions. FD staff remain uncertain about the rules and



Operation of new student dormitories (here, at Teknaf) was another potential source of CMO revenue, but FD staff objected on policy grounds. These have also come under CMO management, but only by informal arrangement.

[Philip J. DeCosse]

responsibilities that can be applied in allowing the CMOs to capture such benefits. So, for example, although the Minister and CCF opened a student dormitory with established overnight rates at the Teknaf Mochini site in 2008, the management roles for the dormitory between the FD and the CMO in that site remain unclear, and the dormitory by 2009 did not regularly receive visitors, in spite of it being in an excellent location.

The trials and errors in this area of benefit sharing highlighted the need for a more comprehensive policy or legal framework enshrining co-management and particularly the right of co-management participants to benefit from a full range of non-consumptive economic activities in PAs so long as conservation was ensured.

Participation in – and Benefits from – Habitat Restoration Activities

The third broad category of benefits sharing from PA lands concerned opportunities to gain from habitat restoration. Government approved management plans for the five PAs explicitly allowed stakeholders to benefit from any off-take related to normal forest management operations within the PAs. One specific benefit cited in the approved Nishorgo plan was “thinning operations”. The benefits included both the employment opportunities that might be provided by the FD in conducting forest management activities and the biomass by-products resulting from such work (especially from bamboo thinning, a commonly prescribed operation), which could be kept by the participants after work was completed.

Progress in ensuring that CMOs – and particularly their patrol groups – benefitted from these opportunities ran into an important obstacle. FD staff at the PA level, and particularly the Range Officers (RO) that oversee habitat restoration or plantation work, had long-established processes for engaging workers in forest management operations. Communication between them and the new CMOs, and between RO and other members of the Nishorgo team, was not sufficient to persuade them to obtain their labor via the CMO rather than via prior established channels. This obstacle was to some extent overcome through management interventions. As the CMOs were made more aware of their rights to take part in such decision-making, communication between FD staff and the CMOs became more regular, and such opportunities were more commonly directed to CMO-delegated groups, and especially the patrol groups.

Two specific proposals for benefit sharing from forest restoration, however, scarcely progressed. The first concerned CMO participation in habitat restoration through mixed long-and short-rotation species plantations. By 2008, the Project Coordinator recognized that large tracts of highly degraded forest such as those in Teknaf GR and Chunar Wildlife Sanctuary would not be restored through FD-managed forest operations. The size of the degraded areas was too large and there existed no realistic opportunities for large-scale FD-financed and managed operations to restore those areas. At the time, the Nishorgo team began to make specific proposals by which costs could be reduced by engaging CMO-selected groups to undertake the restoration plantations within the PA boundaries.

Accordingly, the team prepared a restoration



Concrete plaque marks 20 hectare 2003 plantation of mixed native species within Chunar Wildlife Sanctuary. High per-hectare costs of these plantations inside the PA meant that only tiny portions of the PA system could benefit, leaving nearly all of Chunar untouched. Yet the policy framework does not allow communities in general or CMO in particular to benefit from assisting in PA restoration. [Philip J. DeCosse]

model under which slow growing native tree species would be interspersed with fast growing exotic trees. Communities would participate in tree planting and have the right to benefit after 10 years from harvesting the exotics while leaving the native trees untouched. In this way communities would directly participate in habitat restoration.

This proposal drew a number of important objections from participating FD staff. It was argued that while forest restoration operations could be pursued within a PA, no individual could benefit from any felling and revenue benefit on those lands without explicit approval. Again the logic for refusal to allow these activities was rooted in the understanding that nobody but the government could receive any benefits from forest land without explicit policy or legal language allowing them to do so.

Here too was an example of an activity consistent with the government approved management plan and consistent with the Government Order on CMOs, but which did not have its own extremely specific language in policy to support it. By 2009, work was under way developing new PA Rules that would allow CMOs to take part in benefit sharing from forest restoration in degraded areas of PAs.



In light of intense commercial demand for timber, innovative solutions were sought to reward those that could halt illegal felling. [Nishorgo Support Project]

One particularly sensitive potential area for benefits sharing from habitat restoration was informally proposed and discussed, but was never formally developed as a policy proposal, in spite of its recognized potential. The proposal called for community patrol groups within a select PA to be allowed benefits from controlled and limited felling of mature exotics such as teak under the condition that they had successfully protected the rest of the forest during a fixed period and would plant framework native trees in place of the exotics. Although it had been discussed earlier, this proposal was

presented and discussed during the Co-Management Week in 2006 by an invited guest at the proceedings -- an eminent conservationist from Sri Lanka named Dr. Sarath Kotagama.

Dr. Kotagama reviewed the community patrolling work at Lawachara and noted its success, but went on to note:

The Forest Department indicated that [it] does not intend replanting of the forest by exotic “teak” any more and was in the process of permitting the regeneration of the natural vegetation. Accordingly, it raises the issue of why guard something if it is not going to be part of the future system? The only reason why it should be guarded is to get better returns in the future, when the appreciation makes the value of the assets higher. [...] In economic terms it will reach a point when even the patrolling staff may find the purpose less beneficial, and could turn a blind eye, or become party to the process of illegal logging (Kotagama 2006: 3)

He went on to wonder how a community patrol or even the Forest Department can be expected to protect an asset that is becoming increasingly valuable, but then proposed this solution:

An alternate way to look at this is to plan to remove the trees over time, while reverting the forest to a regenerated forest of indigenous trees. While the trees are removed part of the earnings are plowed into a community fund. This fund will benefit the community beyond the removal of trees! The community can also be involved in the restoration (replanting, facilitating tree establishment through manipulations, etc.) and remuneration for restoration can be channeled to the community and the community fund. The ultimate would be to use the restoration as a means to bring back larger fauna and some unique plant assemblages and thus tourist attractions for eco-tourism (2006: 3).

The proposal, however, to allow CMOs to benefit from controlled removal and sale of exotic teak within Nishorgo PAs was not taken at the time considered a viable opportunity, principally because the idea of allowing CMOs to harvest teak from within the PAs – even if conducted in the context of a habitat restoration process – then raised a number of particularly difficult policy and practical challenges. Felling of mature hardwoods in the PA, even if done as part of a habitat restoration process, would have raised objections on the grounds of the Wildlife Act. And in addition, concerns were raised about the risks of opening the door to tree felling in the PA, and how that might result in an uncontrollable amount of felling of other trees. At the time, this particular policy proposal was too far advanced for the context, and did not develop.

Wildlife Act

From the first draft of the PCP prepared in early 2004, technical support to revise the Wildlife Act had been envisioned as a Project activity. It was included subsequently in the DPP in 2005. The leading impetus for revising the Act was the need to modify the CITES annexes to reflect current understanding of the species present in Bangladesh and the threat levels of those species. Additional impetus for revising the Act came from the need to regulate private zoos and export of wildlife, both of which had attracted the attention of the Wildlife Advisory Board.

The revision process was led by the Conservator of Forests (CF) responsible for the Wildlife Circle, and highlighted, in addition to the aforementioned areas, the need for modification of arrest powers of FD staff. Through 2005 and into 2006 the Nishorgo team worked closely with lawyers from the Bangladesh Environmental Lawyers Association (BELA) to propose modifications to the Act that would be consistent with the benefits sharing and governance elements of the co-management approach. No less than 20 revisions of the draft Act were written during this period.

The revision process was constrained from the start by a desire on the part of the Forest Department to ensure that no major changes were made to the Act, but rather that phrases and clauses would be modified so that the revised Act would be close to the original. The Department argued that passage of a modified Act would be much easier to obtain than proposing a fundamentally new act. Yet with all the proposed revisions, the draft Act by the end of 2006 included so many changes that the revised version was in any case effectively a new statute.

After a lull in work on the Act in 2007, it was reinvigorated in late 2007 – now under the Caretaker Government – again because of pressure to comply with CITES and update the species lists. Again in late 2007 participatory feedback was sought by the Department from academics and NGOs about the draft content. At that time, a Bangla translation was made of a final draft.

But the efforts in late 2007 again did not lead to the revised act being passed. Although the driving impetus came to meet CITES obligations, there were too many other elements governed by the Act that needed extensive revision, including the need to:

- Clarify the status of new terms such as Safari Park and Eco-Park, which had been used in the DPP and later for in naming newly created nature areas, but did not yet have any formalization in policy;
- Formalize the terms and constitution of CMOs already operating in Nishorgo PAs;
- Refine guidelines for the many new private zoos that had appeared throughout the country since the last revision of the Act;
- Clarify the role of the Wildlife Advisory Board established in the original Act, but with its authorities not well elaborated.

Revisions to the revised Act and its process of final approval has continued, and the revised Act is expected to be approved immanently.

Advisory Bodies and Policy Advocacy

The Wildlife Advisory Board – created under the Bangladesh Wildlife Act 1974 – was created under Chapter 4, Sections (1) and (2) of the Act, with the loosely defined powers granted there that: “The Bangladesh Wildlife Advisory Board shall perform such functions as the Government may assign to it.”

Membership in the Board was governed by a notice published in the Government Gazette.



At this public consultation and hearings on the draft Wildlife Act in 2008 at the Forest Department, Professor Anwarul Islam of Dhaka University speaks as invited guests from public and private sector listen. [Philip J. DeCosse]

The Nishorgo team had assumed that the Board could be an effective platform for advancing the priority policy issues related to PA conservation and co-management. The Board is chaired by the Minister of Environment and Forests, with membership from multiple ministries and government institutions. Civil society is represented, with participation in meetings in 2004 through 2008 by IUCN-Bangladesh and the Federation of Environmental Journalists of Bangladesh (FEJB).

In the period 2004 through 2008, however, meetings of the Wildlife Advisory Board occurred rarely, and usually in response to a specific issue. Two major issues dominated the few meetings held in 2005 and 2006. The first of those issues was that of cross border trade in endangered species, with particular attention paid to whether Bangladesh was adhering to its CITES requirements. The second issue concerned the existence and management of private zoos. Central policy and institutional issues such as Government or community capacity for wildlife management, collaborative management or benefits sharing never formed part of any agenda for Board meetings.

During revisions of the Wildlife Act, the issue of how the Advisory Board might be modified to more effectively advocate for policy and institutional reform was discussed at length. One of the leading proposals at that time was to create Divisional-level Wildlife Advisory Boards for coordination at a level closer to PAs. It was proposed that the relevant DFOs be the Member Secretary of those Boards. Ultimately this was not included in the draft Act, but its proposal and discussion indicated the recognized need for decentralization of the policy making and review process.

In common with other development projects, the Nishorgo DPP specified a Steering Committee chaired by the Secretary, Ministry of the Environment and Forests, and including representatives – at a level not to be below that of Additional Secretary – from eleven concerned ministries and departments. The Nishorgo Steering Committee met seven times between its creation in late 2003 and the its final meeting under the Nishorgo Support Project on November 13, 2008.

Review of the minutes from the Steering Committee meetings shows the Nishorgo team introducing critical policy and programmatic developments throughout this period. Indeed critical ideas were introduced in early Steering Committee meetings (Nishorgo Vision at the second meeting on Feb 9, 2005; CMO structure and composition at the third meeting on Feb 28, 2006; and entry fees at the fourth meeting later in 2006).

The Committee heard these presentations and some discussions ensued. However, the Committee meetings generally were not able to provide the sort of consistent leadership in resolving policy or operations concerns that might have been expected.

Recognizing the shortcomings of policy coordination with the Steering Committee, the Nishorgo team sought closer relations with the Arannayk Foundation, a tropical forest conservation foundation created under the Societies Act with membership from civil society as well as the US and Bangladesh Governments. In light of the strong common interests of Arannayk Foundation and Nishorgo team for forest conservation and benefits sharing, it was thought that areas of common policy ground might be found that could be pursued jointly. Certainly, the two agendas of support to collaborative management and support to improve capacity of the Forest Department seemed to be common ground. However, in spite of good will and efforts on both sides, these attempts at joint advocacy were less successful than expected. Arannayk did by 2008 undertake a number of forest co-management activities, but its approach and policy agenda remained quite different from Nishorgo, and the relationship thus did not therefore prove to be effective at furthering the policy causes of Nishorgo.

Policies Relating to Brick Kilns

Brick kilns are found throughout the country, often in the immediate vicinity of Reserve Forests, including forest Protected Areas. Brick kiln owners claim to use coal to fire their kilns at these areas, but it is widely accepted that wood provides the primary source of energy. Consequently forests with brick kilns nearby are heavily degraded from fuel wood collection.

Laws are in place to ensure that brick kiln operation does not damage the country's forests. The Brick Burning (Control) Act, 1989 requires that no brick kilns be located within 3 kilometers of any Reserve Forest (including all forest PAs), and that if a kiln does not move from such a location, then its permit should be cancelled (Section 4(5)). This Act also notes that the use of any fuel wood in brick kilns is prohibited (Section 5), and that an officer appointed by the Deputy Commissioner should carry out inspections from time to time (Section 4(3)). Further, the Environmental Conservation Act, 1995 requires that brick kiln operations have an environmental certificate or permit.

These policies are widely circumvented. Brick kilns have been in operation in the immediate vicinity of Reserve Forests for many years, including at the two southern Nishorgo PAs, and have caused extensive damage. Brick kiln owners, however, are so well connected that challenging them on legal or policy grounds has appeared to be futile. Legal or regulatory action to close or move brick fields depends ultimately on the DC's office, so FD officers can do little to stop them, even when they are established within sight of a Reserve Forest.

In 2007 and 2008, the CMOs of Chunati WS and Whykeong (within the Teknaf GR) tried to raise this issue by sending letters to the DC's office requesting clarification of the validity of the permits of existing brick kilns. The CMOs were reluctant to take any open position against brickfields in light of the status and power of their owners and a fear of retribution. In part due to the social pressure associated with this process, one of the brick fields from Chunati WS closed down. But other than this closing, the CMOs were not able to use the policy framework to their advantage. Indeed, at Whykeong, the Chairman of the Co-Management Committee at the time was himself the owner of the brick field located immediately to the north of the PA, so that CMO was compromised in taking any forceful action.

The major English and Bangla daily newspapers have published numerous articles about brick kilns and their "flouting" of existing laws in relation to forest lands.⁵ The Nishorgo team worked to convince the Secretary and the Advisor for environment (at the time of the Caretaker government) to nullify the permits of those brick fields operating next to Nishorgo PAs. But in spite of public advocacy, local pressure from the CMOs, and national-level pressure through environmental authorities, nearly all the brick fields remain in operation around the Nishorgo PAs.

The constraint is not one of gaps in policy. On the contrary, the policy framework is relatively well developed and clear for brick fields. Rather, the difficulty in changing the location of brick fields in the interests of forest conservation provides a stark reminder of the challenges

⁵ For example an article on brick fields in the Chittagong Hill Tracts: "Big Shots Levelled Vast Terrain of Chittagong Hills", Daily Star, June 18, 2007; and the front page photo and caption from January, 2008 (shown in the text). Many similar articles were published during 2007 and 2008.

facing CMOs as they work to wrest greater control from those that have determined the use – or misuse – of PAs for decades.

Other Related Framework Biodiversity Conservation Policy and Legal Initiatives

Three other Nishorgo-relevant policy initiatives were undertaken between 2003 and 2008, and they are each instructive in understanding the evolution of conservation and co-management in Bangladesh. They were: the National Biodiversity Strategy and Action Plan process; development of a Wildlife Policy; and, the development of rules for management of Ecologically Critical

Areas. Although the Nishorgo team did not lead or create any of these three initiatives, we recognized that each of them could have an influence on the policy and institutional framework for collaborative management of PAs, and it was thus deemed important to engage in the processes as much as feasible.

The National Biodiversity Strategy and Action Plan (NBSAP) process began in late 2002, and was coordinated by IUCN Bangladesh in support of the Ministry of the Environment and Forests. The NBSAP process followed on from the outcomes of previous World Conservation Congresses, with similar efforts undertaken in other countries. The objective was to put in place a coherent policy framework for biodiversity conservation across the multiple programmatic areas and institutions pertinent to biodiversity. The NBSAP was presented at a “First National Workshop” in October 2003 and then a follow up workshop in March 2004. Leading outcomes of that process included a call for a high level board that would have authority to address biodiversity issues across multiple sectors and ministries and preparation of a parent law on biodiversity. Neither of these two broad priorities was pursued after completion of the NBSAP process in 2004.

One characteristic of the NBSAP process was particularly relevant and telling: there was no mention of citizen collaboration in PA management – or “collaborative management” -- anywhere in the NBSAP final report. The lack of explicit mention of participatory PA management, or co-management, was telling for the Nishorgo team as a sign of how much had to be done to advance such ideas.

In 2005, the Ministry of Environment and Forests, with minimal involvement of the Forest Department, began to prepare a new “Wildlife Policy” that was in some measure to be a follow



up to the need for a unified biodiversity policy framework called for in the NBSAP. Again, a number of recommendations came forward, particularly the need to create a new “Department of Wildlife Conservation”. The draft policy, prepared in Bangla and circulated widely, was never adopted by the Government. But it is interesting that it too, like the NBSAP documents, made no mention of participatory PA management, or co-management. Indeed, the idea and words “Protected Area” were not even included in the document. It did propose, however, that the management of wildlife should be taken away from the Forest Department and put into the hands of a proposed Department of Wildlife Conservation.

The Nishorgo team engaged in these proposals for a new Department with particular energy. The team argued that creating a new organization as a solution to conserving wildlife would create more confusion than help. By 2007, the Wildlife Policy after its multiple drafts was put aside and was not subsequently supported by the Ministry of Environment and Forests. Its debate and discussion between 2005 and 2007, however, contributed to mixed signals and confusion in the area of biodiversity conservation.

Nishorgo also closely tracked and participated in proposed regulatory development under the 1995 Environmental Conservation Act, which empowered the newly formed Department of the Environment (DoE) to declare areas as “Ecologically Critical Areas” (ECAs) over which the Department would have authority to take steps for their protection. Having designated ECAs the DoE has undertaken the GEF-financed Coastal and Wetland Biodiversity and Management Project (CWBMP) from early 2003 through 2009. CWBMP was designed to create participatory collaborative management regimes and supporting management interventions for four of the ECAs.

As the CWBMP progressed, it became increasingly clear that the project suffered from not having any specific legislation or policy to support it. One particular concern was the lack of a specific mandate for conducting field operations in the ECAs, and the human capacity to implement such a mandate. Although the 1995 Act established both the DoE and the framework for ECAs, the set up of the DoE focused on pollution management and environmental regulation, and it lacked field-based staff experienced in PA management.

In light of shortcomings in the policy and legal framework for DoE management of ECAs, the CWBMP commissioned a team in 2008, to be led by the Bangladesh Environmental Lawyers’ Association (BELA), to propose draft ECA Rules. The draft ECA Rules called for Management Plans to be prepared once ECAs were declared. The draft Rules also required that all declared ECAs would be managed by a newly created Environment Cell within the DoE. In addition, the draft Rules called for designation of “core zones”, “buffer zones” and “multiple use zones” in each ECA. In essence, the draft Rules were calling for creation of a new PA management organization within the DoE. The ability of the DoE to implement such PA management was constrained by its lack of formal management authority over ECA lands. In each ECA, the lands are some mixture of private lands and public lands under various ministries. For example in Sonadia Island ECA there is Forest Department land and in wetlands such as, Hakaluki Haor ECA the permanent water is under the jurisdiction of the Ministry of Land. Hence the DoE’s authority to actually implement conservation management and planning in ECAs was and is unclear.

While ECAs are clearly a different type of conservation area from Forest Department PAs, the ECA Rules development process highlighted increasing sophistication and development of language about conservation area management. That it should now be openly used to propose terms such as buffer zones, multiple use zones, and PA management plans made it clear that an increasingly sophisticated policy context was developing in which PA management issues could be discussed.

Lessons Learned

A number of lessons emerge from work in support of policy and legal frameworks for co-management, as follows.

Early work to establish a common vision through the Nishorgo Vision process proved a constructive means of fixing goals for the biodiversity program with a select group of forward-thinking members of the Forest Department. The Vision was not, however, widely cited or referred to as the official policy of the Department, even though it had been validated by the Nishorgo Steering Committee. While the Vision did not succeed in formally establishing a policy grounding for co-management, the process helped in crystallizing understanding within the Department, and with co-management partners, of the policy and institutional agenda being advanced by the Department.

The PCP and DPP contents are considered to be policy so long as those proposed policies do not challenge the status quo too abruptly or conflict with policies in other sectors, as was the case with the DPP language about sharing entry fee benefits. The Government's PCP and DPP documents are derived from bilateral agreements and project contracts established between the Government of Bangladesh and USAID, but the PCP and DPP lag one to two years behind the project contract, and this delay creates delays and challenges in project implementation. The PCP and DPP are considered – by the Government staff at least – the only valid project documents. For Nishorgo – and this is not uncommon – the DPP was approved nearly a year and a half after Nishorgo began. And, although DPP are taken seriously as policy for non-controversial issues (such as creation of CMOs), elements of the DPP may not be accepted as policy if they conflict with other regulations. In the case of Nishorgo, the technical ministry (Environment and Forests) approved the DPP although the Ministry of Finance later rejected the community-level revenue retention proposals included there on the grounds that the Constitution explicitly forbade local revenue retention.

The project team underestimated the strength of opposition to any change in revenue capture processes associated with Government lands and resources. What was considered strong policy language in the DPP was not sufficient to change the strongly held notion that no revenue could be generated from Government lands that would not be forwarded to the central Treasury. The example of the social forestry policy (where benefits are shared at the time of transaction) notwithstanding, the Nishorgo team was unable to succeed in direct sharing of revenue from PAs with the co-managers that were helping to protect the PAs. With hindsight, a considerably stronger advocacy effort would have been required to obtain passage of the desired revenue sharing targets, which would have called for a greater staff allocation, and the existence of an advocacy body (or bodies) independent of the FD and the Nishorgo Support Project.

Although economic studies had concluded that greater variation of entry fee by PA and by visitor type could lead to increased total earnings from the PA fee, political considerations proved more important in determining final entry fee levels. Entry fees could and should be adjusted in the future to account for variation in services delivered at each PA. Studies using willingness-to-pay methods and travel cost methods both concluded that entry fees could be increased at select PA with a resulting increase in PA revenue from those sites. As the number of visitors continues to increase at high profile sites with better visitor facilities, increased entry fees should be considered at least as a means of controlling visitor numbers.

A widely held understanding that amongst government officers that neither individuals nor organizations can derive direct economic from forest PA lands slowed revenue-sharing pilot efforts. Although gradual progress on allowing shared PA entry fees, much less progress on sharing of benefits from other non-consumptive uses of forests (tourist stalls and student dormitories) and forest management benefits (habitat restoration work). Legitimate concerns about lack of precedent for such benefits sharing arrangements in the Bangladesh system contributed to the hesitation to implement such ideas on PA lands.

It became gradually clearer that the institutional landscape in which PA-related policies are advanced suffered from a lack of independent, objective and strongly voiced non-government opinions from civil society. There is no shortage of passion for nature conservation in Bangladesh, yet there was during 2003-2009 a notable lack of independent non-government organizations dedicated to the cause of PA conservation and management.

Evidence of the lack of such organizations emerged in 2006 when an environmental impact assessment (EIA) was being reviewed for an energy investment within one of the PA. Although many individuals and organizations raised concerns in private dialogue about the investment, only one non-government organization openly and publicly questioned the process or its impact on the PA. In this case, as in many cases subsequently, the policy and advocacy context for PA management lacked a strong and independent set of voices standing up for PA conservation.

But throughout the period of Nishorgo's implementation, forest PA policy issues were advanced principally through the direct work of the Forest Department and with support of the Nishorgo Support Project team. In the long run, PA co-management will not succeed unless it is supported by a broader coalition including interested and vocal organizations and individuals within civil society. The Nishorgo team might have recognized this earlier and pushed to support such independent voices earlier in the initiative. But certainly, without such organizations in the future, it will be difficult to imagine that the necessary policy framework and substantive legal and policy changes required will take shape.

The most important advocate for significant policy change in PA management is the unified voice of local communities as PA co-managers. CMOs were established for forest PAs during Nishorgo, building upon the community based co-management organizations established earlier by MACH and other fisheries projects. As these organizations become stronger under ongoing and future initiatives, it will be essential they develop strong and national organizational structures to speak from their own perspectives and needs. Without an increasingly strong voice from community based organizations and CMOs, then the range and force of policy changes will not take place.

Revision of the Wildlife Act has been slowed by lack of broad consensus for change. In order to be made current with the wide array of global and national PA management issues – including benefits sharing and co-management, to name two – the nearly 40 year old initial Act would best be re-drafted as a new Act covering wildlife and PA management. Yet there was no consensus for a new Act during Nishorgo’s period of implementation, and so the FD and the Nishorgo team focused on support to revision of the existing version. Although the Act’s revisions progressed slowly and haltingly during throughout the period of Nishorgo’s implementation, work nevertheless continued, and the draft revisions of the Act continued to include language formalizing the co-management process and benefits sharing principles.⁶

Conclusions

During the period after 2003, a number of significant policy and institutional changes were initiated or furthered in support of PA co-management. The principle was proposed, debated and advanced that revenues – in cash and in kind – from co-management PAs should be shared with those individuals that were working to protect and conserve the PA. This principle became most specific and applied in the case of PA entry fees, for which approval was received to share 50 percent of them with CMO at all pilot sites. Benefits sharing from silvicultural operations within PA also became more common. But progress was slow in the area of formally agreed up sharing of other revenue benefits generated from FD lands, whether for mixed rotation plantations on degraded core zone land or non-consumptive tourism-related enterprises.

At a broader level, the PA co-management process being supported by Nishorgo faced policy constraints that were beyond the manageable interest and reach of the project team working under FD leadership. Although CMO could – and did – take actions against brick field owners and other threatening interests, the policy framework, and the enforcement of that policy, was generally beyond the reach or capacity of the CMO and the Nishorgo team. As it goes to a broader scale of implementation, and as Bangladesh’s already rich, diverse and nature-loving civil society leaders recognize the importance of a secure PA system, it is reasonable to think that a consensus for more dramatic policy change in support of PA co-management will take place.

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⁶ As this book went to press, the revised Wildlife Act was under final review by the Law Ministry following which it will be submitted to Parliament.

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