

3 Government Policy and Legislation on Forestry

3.1 The Process of Formulation of Government Policy

Government priorities change over time with changes in socioeconomic, environmental, political, and economic development needs. Such changes require formulation or revision of government policies. The Ministry concerned leads the formulation of new policy. Ministers are responsible for policy formulation at the national level, with assistance from various professionals within the Ministry in a type of participatory approach. New priorities are set out by the professional staff in the ministry on the advice of the ministers and political heads, within a given framework and in accordance with the commitments made to the people. After careful review, top bureaucrats advise the political leaders of the government on the revised priorities, and these are treated as the basis for revision or formulation of policy.

The main stakeholders in initiating changes in forest policy in Bangladesh are international donors, forestry professionals, politicians in power, and non-government agencies (NGOs). Discussions are often held with various stakeholders: experts, professionals, NGOs, and the private sector. The prevailing socioeconomic, environmental, and political factors greatly influence such policy decisions. Internal influences and/or pressure from various interest groups, such as non-government organizations, persons especially concerned with conservation, professional organizations, industrial organizations, and groups with common interests, can affect decisions on

policy. The detailed steps and benchmarks in policy formulation in Bangladesh are summarised below.

- Formation of a working or expert group, with representation from the agency or department concerned, to prepare a policy draft. Sometimes experts are hired to assist such a group
- Review of existing policy and legislation by the group
- Collection and study of relevant data by the group
- Preparation of a discussion paper on 'future policy direction'
- Arrangement of workshops, inter-ministerial meetings, and similar on future policy direction, which are attended by various interest groups
- Formulation of the first draft using feedback from workshops and meetings
- Circulation of the first draft to different ministers, agencies, groups, institutions, and organizations for review and comments
- Arrangement of consultation or workshop with wider stakeholder representation after incorporating comments and observations on the first draft
- Finalisation of the draft policy proposal through an inter-ministerial forum after discussing the comments and observations received
- Submission of the proposal to the officer concerned in the ministry responsible. The officer will write a cabinet paper and submit the proposal to the cabinet for approval.

- The cabinet of ministers will accord formal approval to the proposal after discussion.
- Publishing of the document as a gazette notification for public appraisal
- Initiation of institutional and administrative reforms to facilitate implementation of the policy
- Implementation of strategies and programmes

The entire process up to approval by the cabinet of ministers takes about one and a half to two years. Throughout the process, newspapers and other media, workshops, and discussions with various stakeholders are used to keep the process transparent and to obtain feedback.

Forest policy is evolved centrally. Bangladesh is a small country and has no regional entities like provinces. The Government of Bangladesh implements the policy throughout the country and there are no regional variations.

3.2 Acts, Policy, and Rules Related to Forestry

3.2.1 The Forest Act

The first Forest Act in this part of the world was enacted in 1865 through a bill based on the rules proposed by the Chief Commissioner of Burma (now Myanmar). The Indian Forest Act of 1878 is based on a model that was similar to that used in other commonwealth countries. The Act was revised extensively in 1927.

The Private Forest Act was introduced in 1945. This was followed by the promulgation of the Private Forest Ordinance 1959, which was an attempt to introduce some sort of management of privately-owned forests, as at that time they were considered to have been improperly managed. The only practice in private forests was to harvest wood and/or clear the forest for agriculture. Under the provisions of the Private Forest Act and Private Forest Ordinance, management of privately-owned forests was taken over by the government.

In 1959, the State Acquisition Tenancy Act was promulgated. The major aim of this act was to

eliminate the control of landlords over their tenants. Under the provisions of this Act, many private properties were declared non-retainable, including 'forest land'. Thus private forests were acquired by the government and were brought under the management of the Forest Department as reserved forest. This was done under an order passed by the Board of Revenue, which is a powerful government body.

3.2.2 Forest Policy

In 1855, the Government of British India promulgated the 'Charter of Indian Forest', and this was the first attempt to conserve forest resources, including those in the area that is now Bangladesh. The National Forest Policy of 1894 provided the guidelines for the formulation of Acts and Rules for the management of forests in Bangladesh. The Forest Policy was revised in 1955, 1979, and, most recently, in 1994. The salient features of the existing Forest Policy 1994 are as follow.

- The government will endeavour to bring 20 per cent of land under forest by the year 2015 to maintain the ecological balance and attain self-sufficiency in forest products. To achieve this objective, the government will work jointly with non-government organizations and ensure peoples' participation in its activities.
- 'Since the forest area under government management is limited, afforestation activities will be extended to village areas, newly accreted mud flats, and the denuded unclassed state forest (USF) areas of the Chittagong Hill Tracts.
- People will be encouraged to plant trees on their own fallow and marginal lands, on the banks of water tanks, and around their homesteads. Technical advice and assistance will be provided to them if they introduce such agroforestry practices on their marginal and sub-marginal lands. While introducing agroforestry in state-owned and private lands, appropriate attention will be given to producing fodder and maintaining herbs and shrubs.
- The government will encourage people to plant the premises of public institutions like

union council offices, schools, *idgah(s)*, mosques; *maktab(s)*, temples; orphanages, and *madrasha(s)*, schools and their surrounding areas. The government will provide technical and other assistance.

- Afforestation activities will be undertaken by the government with people's participation and with assistance from NGOs on state-owned marginal lands like the sides of roads, railway tracks, and embankments.
- The government will take up special afforestation activities in all municipal areas of the country to ensure pollution control in the cities. To achieve this goal, the municipalities, town development authorities, and other related autonomous bodies will help the government in the implementation of the programmes by zoning and allotting land for tree plantation. Town planning authorities must make provision for tree planting in their development plans by setting aside specific sites for the purpose.
- In the hill districts of Banderban, Rangamati, and Khagrachari, massive afforestation programmes will be undertaken in the USF by public and private agencies. The local governments will execute the programme, keeping the land rights retained by the Land Ministry.
- In order to preserve soil, water, and biodiversity, natural forests in hilly areas and river catchments within the country will be declared Protected Areas, Game Sanctuaries, or National Parks. The government will endeavour to class 10 per cent of the national forests as 'Protected Areas' by the year 2015.
- An integrated management plan, incorporating the management of forest, water, and wildlife, will be prepared for the Sunderbans.
- State-owned hill and sal (*Shorea robusta*) forests, except those declared 'Protected Areas', will be managed as production forests. Production forests will be managed on a commercial basis with due consideration given to the environment.
- Critical areas like steep hill slopes, vulnerable watersheds, and wetlands will be designated as 'forests' and will be managed as Protected Areas.
- Denuded and encroached government forest lands will be identified and will be reforested with people's participation with a benefit-sharing arrangement, preferably under agroforestry, in which NGOs may be associated.
- Modern and appropriate technologies will be introduced to minimise loss at all steps of collection and processing of forest products.
- Emphasis will be placed on the modernisation of forest-based industries to maximise the utilisation of raw forest materials.
- Steps will be taken to bring in competitive and profit-oriented management of state-owned forest-based industries.
- Labour intensive small and cottage industries based on forest products will be encouraged in rural areas.
- Forest transit rules will be made simpler to meet present-day needs.
- Since there is a wood deficit, the ban on the export of logs will continue. Processed wood products will, however, be allowed to be exported. Import of wood and wood products will be liberalised, but reasonable import duties will be levied on forest products that are abundant in the country.
- Due to the shortage of forest area in the country, no forest land will be allowed to be used for any purpose, other than for afforestation, without the permission of the head of government.
- In the absence of clearly defined land ownership, the tribal people living on forest lands in some parts of the country cultivate anywhere in the forest. Clearly delineated forest land will be set aside for them through forest settlement activities, and the rest will be brought under permanent forest management.
- Additional training, technical assistance, and financial support will be provided from the funds received as international grants from donors for afforestation of private land and tree-based rural development programmes.
- More women will be encouraged to take part in programmes such as homestead

afforestation, rural tree farming, and participatory forestry.

- Eco-tourism will be encouraged, keeping in mind the carrying capacity of the forest and nature.
- To create mass awareness about afforestation and the protection and utilisation of forests and forest products, a mass media campaign will be started through government and non-government channels.
- Under forestry programmes, planting of fruit trees shall be encouraged in addition to planting of timber, fodder, and fuelwood trees and other non-wood product species.
- Steps will be taken to modernise the methodology of extraction of forest products to minimise loss by increasing efficiency.
- The Forest Department will be strengthened to achieve the objectives and goals of the policy and a Social Forestry Department will be established.
- Research institutions and education and training institutions related to forest will be strengthened to achieve the policy targets. Their roles will be further enhanced and integrated.
- In light of the aims, objectives, and targets of the Policy Statement, the Acts and Rules related to forestry will be amended and, if necessary, new Acts and Rules will be promulgated.

The Forest Policy of 1994 is very comprehensive and for the first time clearly incorporates the concept of participatory forestry. This has opened up the avenue for cooperation between NGOs and government agencies in the promotion of social forestry.

3.2.3 Rules

No new rules have yet been framed under the revised Forest Act 1989. The rules still in force are those that were framed under the Forest Act 1927. The major rules under the Forest Act that deal with people are the 'Forest Transit Rules' for various districts. In addition to the transit rules, there is a 'Drift Rule' for the greater district of Sylhet. These rules regulate the movement of

forest products, including timber and non-timber forest products, harvested from both private and government lands. For products from private lands, the transit rules specify that a 'tree certificate' specifying its private ownership has to be obtained from the Forestry Department. Sometimes the collection and sale of forest produce from privately-owned areas are also prohibited. The executive orders required to be passed from time to time by the Ministry of Environment and Forests on this issue impose stricter regulations in an attempt to reduce stealing of government forest products, but they have not had the desired effect. At the same time, these orders have caused many people, and especially law-abiding private forest owners, to become annoyed with the government. The existing rules have no arrangements for appreciating or accommodating participatory forestry activities.

3.3 Participatory Approach

In 1985, for the first time in the history of Bangladesh forestry, 15 acres of land under Dinajpur Forest Division were included in an agroforestry trial with participation by local people. Agreements were made between the participants and the Forest Department. This had no legal basis, thus executive orders were passed from time to time to support the activity. The trees were felled in 1992 and the yield was shared between the participants and the Forest Department. The area was replanted under an order passed by the Ministry of Environment and Forest *vide* number PoBoMo (Sha-3)/10/12/228 dated 05/05/92.

The Chittagong Hill Tracts' Development Board was created in 1976. The Chittagong Hill Tracts' Multi-sectoral Development Project was started in 1979, under the supervision of the board. It had 11 components including two on 'Upland Settlement' and 'Afforestation and Settlement in the Unclassed State Forest of Chittagong Hill Tracts', implemented by the Chittagong Hill Tracts' Development Board and the Forest Department, respectively.

The Forest Department project was ultimately removed from the Chittagong Hill Tracts'

Development Board and was launched in the hill districts of Rangamati, Khagrachari, and Banderban from 1979 to 1990. The second phase of the project lasted from July 1990 till June 1995. The third phase of the project, which has adopted a participatory approach, started in July 1995 and it will end in June 2000. This third phase of the project has two main components, namely, *juhamia* (shifting cultivators) rehabilitation and afforestation of USF/ RF lands.

The objective of the *juhamia* rehabilitation is to motivate shifting cultivators to become permanent residents at a given site where housing, remuneration, and areas for plantation of fruit and forest trees are provided. This project aims to settle 350 *jhumia* families. Each family will receive five acres of land. They will enjoy 100 per cent of the yields from fruit trees and agricultural crops, 100 per cent of the yield of the first thinning, 50 per cent of the yield of the second and third thinnings, and 15 per cent of the final yield of tree crops. Five per cent of the final yield will go to the tribal king, the local government, and the headman. Thus a total of 30 per cent of the final yield of the forestry crop goes to the local stakeholders. The remaining 70 per cent goes to the government. The first two phases of the project were very successful in reforestation activities, but participation of people and sustainability were not achieved to the extent desired. This was mostly because of the nomadic nature of the tribal participants. The on-going third phase seems to be more successful, although some of the *jhumia*(s) have abandoned their farms after two or three years. None of the plantations have yet been finally felled to share the benefits.

Upland settlement was the major component of the multi-sectoral project implemented by the Chittagong Hill Tracts' Development Board. The objective of this component was to settle 2,000 landless tribal families by providing 6.25 acres of hilly land per family for planting orchards and rubber trees. The families were provided with other social facilities and technical and financial assistance for raising 4,000 acres of orchards and 8,000 acres of rubber trees. The project has been completed

and many rubber plantations have come into production. In most cases, the lifestyle of the settlers has improved. Because of the success of the activities, the second phase of the Upland Settlement Project was launched in 1996. The second phase of this project will cost 400 million taka and last for 12 years. It incorporates a mixed plantation model with rubber and tea, instead of a strict monoculture of rubber, and has introduced Sloping Agricultural Land Technology (SALT) on a 1.25 acre plot.

The Forest Department implemented the first social (participatory) forestry project in 1987-88. It was called the *Thana Bonayan* and Nursery Development Project and was sponsored by the Asian Development Bank. The project was launched all over the country, except in the hill districts of Rangamati, Khagrachari, and Banderban. These districts were excluded because of the peace and order situation in the area.

As there were no existing rules and regulations to support the social forestry project, the government issued administrative orders and notifications to overcome the legal barriers in order to accommodate people's participation in forestry activities. This was a major breakthrough in the forestry sector, as it gave a footing to participatory forestry. Most of the notifications were issued in 1989. They declared committees at various national administrative levels such as union, *thana*, district, and national levels. The committees have specific terms of reference designed to solve the problems associated with implementation of the participatory forestry programme at different levels. Since the participants are mostly uneducated and have no forestry knowledge, and only a little knowledge of agriculture, they are often helped by field-level forestry officials to reach decisions about their agroforestry activities.

Agreements were signed between the Forest Department and the participants in the social forestry activities on the sharing of benefits between the people and the government. The government land involved in the participatory forestry activity varied from encroached

reserved forest land to roadsides, sides of railway tracks, and embankments. In most cases, the participants were to be given 40 per cent of the final yield of the forest crop and 100 per cent of intermediate yields such as agricultural crops, thinning outputs, and pruned out branches.

A new project called the Forestry Sector Project, which is basically a social forestry project, was launched in 1997. This project will be implemented all over the country including the hill districts of Rangamati, Khagrachari, and Bandarban. This project gives greater emphasis to involving NGOs in work with the local communities.

Although the existing policy, the Forest Policy of 1994, has enunciated and accommodated participatory forestry programmes, and the participatory approach to forestry activity has already started to function, acts and rules have yet to be formulated. The Forestry Department of Bangladesh is an old institution and firmly follows the acts, rules, and executive orders. The existing rules do not permit benefit sharing from forestry, but specific notifications or orders have been passed to run participatory forestry activities. The process of revising the acts and rules has already started. It needs a lot of thought, including the weighing up and balancing between control of pilferage and the relief that needs to be given to the participants in participatory forestry programmes. It is a difficult task, especially for a poor country like Bangladesh. A high power task force is working on the revision or reformulation of the Forest Act.

People's participation in decision-making has been incorporated in the policy. The National Forest Policy of 1994 states that the opinion of those who are dependent on the forests should receive due consideration in the implementation of forestry projects. However, the detailed process for this has yet to be worked out. It is expected that detailed rules will be formulated following the revision of the Forest Act. For the hilly regions of the country, the Forest Policy clearly states that large-scale afforestation shall be undertaken using a participatory forestry mechanism, especially in

the USF areas of the Chittagong Hill Tracts. The policy also indicates that the hill areas of the country will be used for production forestry. The new Forest Policy of 1994 includes the participatory approach to forestry. This is a milestone in the transition from traditional forest management to a participatory approach. The real impact of the change will be difficult to assess, however, until the Forest Act is revised and the new rules are published. Overall, the forestry officials of the Forest Department are not opposed to the change. Many are looking forward to rules that will ensure that participation is accountable and the forestry resources protected.

There is, as yet, no uniform benefit-sharing mechanism for the whole country. Benefit-sharing mechanisms differ at different sites and also vary with the project design. The benefit-sharing mechanism used in the *Thana Bonayan* and Nursery Development Project is described below as an example.

The final yield from strip plantations along railway tracks, highways, embankments, feeder roads, and from wood-lot plantations are shared as follow.

• Participant (plus all intermediate yields of products)	40 %
• Railway Authority	10 %
• Local Union Council	2.5%
• Local Council	2.5%
• Thana Council	25 %
• Government Revenue	20 %
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The final yield from agroforestry plantations is shared equally between the Forest Department (as government revenue) and the participant.

A second example is provided by the project on Afforestation and Rehabilitation of *Jhumia* Families in the USF and Reserved Forest Lands of the Chittagong Hill Tracts (3rd phase).

- Participants, 15% of final yield, all agricultural and horticultural yields, 100% of 1st thinning, and 50% of other thinnings.

- Headman 5%
 - Tribal King 5%
 - Local Council 5%
 - Forest Department 70%
- The benefit-sharing approach is clear and unambiguous. Agreements are signed between all parties in clear terms describing the duties and responsibilities of each party. So far, there has been no conflict and in a few cases participants have already received their share after final felling.