



giz Deutsche Gesellschaft
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Zusammenarbeit (GIZ) GmbH



Policy Note

September 2013

“Strengthening Governance in Wetlands and Water Bodies Management Policies in Bangladesh”



1. Introduction

Bangladesh, historically a country of wetlands comprises 3,925,290 ha (DoF, 2013) of open water areas of diverse types and nature such as *beels*, *haors*, *baors*, *khals*, rivers, seasonally inundated flood lands and coastal brackish water swamps and marine waters. These wetlands provide as home for about 300 freshwater fish and shrimps and over 500 species of marine fish and shrimps (DoF, 2013). It is the richest in comparison to many other countries in the world. Over centuries, millions of rural poor depend on the wetland resources (fishing and collecting various other wetland products) for their food, nutrition, income and livelihoods either year round or for a part of the year. This natural connection between people and wetlands (mainly capture fisheries) gives an identity to Bangladeshis as “*mache bhate bangali*” (fish and rice makes a Bengali).

Of the total wetland areas, 232,532.87 ha are owned by the government (*khas*) and are termed as *Jalmohals* (MoL, 2013) and as such access rights is restricted, subject to acquire leases from the

appropriate authority. District and upazila authorities manage the leases as per the policy guidelines of the MoL. However, the national policy keeps all the flowing rivers out of the leasing systems and thus treats as open access resources assuming that the local fishing communities would get preferential access.

However, several natural (viz. siltation of wetlands, shortage of dry season water) and anthropogenic (viz. overexploitation, conversions, policy, process and institutional responses) barriers and constraints have been severely impacting the sustenance of wetland resources including the fisheries over the past few decades. Although several donor-supported government projects have demonstrated good practices in pro-poor sustainable co-management of wetland resources in various locations they are yet to be fully mainstreamed in the national development policies, strategies and action plans to realize the full benefits of such efforts. To this end, German Government through GIZ in conjunction with WBRP-DoF



Consultation and discussion with stakeholders at Gangbhanga beel, November 2012 (one of 9 wetlands visited at Pabna).

engaged Institute of Governance Studies (IGS) and Centre for Climate Change and Environmental Research (C3ER) of BRAC University, Bangladesh to conduct a study aimed at “Strengthening Governance in Wetland and Water Bodies Management Policies in Bangladesh” and suggest actions.

This policy note is prepared based on review of the relevant national policy documents and collection and collation of primary data gathered from multiple sources. Several field level consultation meetings were held with the fishers, local fisher cooperatives, wetland based project organized CBOs, wetland project staffs and relevant government officials including DoF.

Field level consultation and discussion with stakeholders at village level

A district level stakeholders' workshop was held at Pabna and the workshop documented views of field level institutional stakeholders on wetland management policies and processes. It included holding a national level roundtable workshop with the representatives of relevant institutional stakeholders and was held in Dhaka on 3 September 2013. The project team also gathered relevant information by attending a workshop in Sri Lanka on December 2012.

2. Features of wetlands/Jalmohals

The wetlands or *Jalmohals* are natural ecosystems and each has multiple ecosystem components that collectively provide various benefits and services for sustaining a soothing natural environment as well as healthy economic, social and cultural environment for human systems (MEA, 2005). Wetlands in Bangladesh have strong seasonality dimensions. During dry season all different types of wetlands remain isolated with distinct boundaries and features. During monsoons the isolated wetlands become submerged with flood water and get interconnected. They form a single or wider water bodies, and remain so for 5/6 months until the drawdown of flood water in late monsoon. These seasonal expansions (flooding) and contractions (dry season) of floodplain enhances the productivity and biodiversity of wetlands and offers diverse stakeholders opportunities to use and receive benefits from both types of production systems (seasonal aquatic and terrestrial systems). *Jalmohals* in Bangladesh floodplains are thus not linear and

static natural systems rather dynamic and multiple production systems upon which diverse social and occupational groups are directly and indirectly dependent for their livelihoods.

Being highly productive ecosystems, Bangladesh wetlands provide various products and services to rural communities, especially for the landless poor. When they remain inundated in the monsoon, wetlands become a vast and robust fisheries area that supports various biological activities of diverse fish species and other aquatic fauna and flora. During the inundation period in monsoon, wetlands also have luxuriant growth of various aquatic plants (lotus, water chestnuts, *makhna*, grasses, reeds and various other aquatic vegetables). During the dry winter, major parts of wetland basins (terrestrial) become suitable for non fishing economic activities such as cultivation of boro rice and various non-rice *rabi* crops using water from wetlands, grazing areas for cattle, buffalos, goats and ducks as well as suitable habitats for diverse wetland resident and migratory birds including waterfowls (water areas). The whole

floodplain ecosystems (including the *Jalmohals*) collectively contribute to influence the overall production systems of wetlands.

3. Integrated wetland resources management: Lessons from the past

Over the last two decades, a number of donor supported GoB projects (viz. CBFM, MACH, SEMP, CWBMP, CBRMP, Tanguar Haor, WBRP) demonstrated various methods and approaches towards establishing community-based co-management of wetland resources and produced encouraging results in terms of protection, restoration and enhancement of wetland ecosystems and products involving user communities along with relevant government

agencies and other stakeholders in a number of *Jalmohals* brought under MoU from the MoL on variable terms. Key conservation interventions at project level include organization of community based organizations (CBOs) comprising of local fishers and other wetland users, establishing wetland sanctuaries, restoring degraded /semi-degraded wetland habitats, swamp forests and riparian vegetations, observing locally accepted fish/ biodiversity conservation, alternative income generation efforts, awareness and capacity building of communities including arrangements for endowment fund at local level. It is now essential that the relevant government line agencies internalize these improved wetland management systems in post-project situation (IPAC, 2009).



Experience sharing workshop and dialogue, Bangladesh Inter-Ministerial study tour to Sri Lanka December, 2012.

4. Latest *Jalmohal* policy – 2009: More to go to make it pro-poor and pro-environment

The preamble of the latest *Jalmohal* policy-2009 enacted in June 2009, clearly states that the policy aims at earning revenue alongside facilitating preferential access to *Jalmohals* by the real fishers following the principles of conservation and enhancement of fisheries production and wetland biodiversity. However, some issues that are identified by different relevant stakeholders both at field and central levels demand revisiting the policy to make it pro-poor and pro-environment.

- **“Jal jar, jola tar” principle** - The preamble of section 5 of the policy used a popular slogan “*jaal jar, jola tar* (owners of fishing nets will be the owners of *Jalmohals*). This slogan was largely appropriate in the past when fishing was the main occupation and livelihood of some socially defined communities such as *jele* or *motshayajibi*

- *kaibarto, jolodas, bormon, malo, maimol*, etc. belong to scheduled castes and recognized as fishers. However, currently there are new entrants in fishing and many of them do not come from the fishers' community rather from the rich non-fishing households. Who treat fishing as a trade and invest in this industry and most of them own fishing gears and crafts but do not catch fish by themselves. The principle of “*jaal jar, jola tar*” thus may create space for non fishers to claim access to *Jalmohals*.

- **Access to *Jalmohal* exclusively by the “real” fishers**– Over time, due to degradation of wetland habitats, shortage of dry season water, pollution and declining fisheries production, large numbers of fishers have diversified their livelihood options (various seasonal non-fishing activities) and thus have lost their exclusive identity as “fishers”. Therefore, it is difficult to find real fishers, in many



Key participants: representatives of government officials from upazila and district level along with Fishermen, Arottdar, Mohajon, Biodiversity Management Organization, District fishermen organization, Fishermen beneficiary group, Women groups, NGOs such as DSKS, GOPA, CNRS took part in this workshop.

A day long workshop (five in each group and such 6 groups were participated) at DC Office, Pabna on May 11, 2013.

areas, who subsist on fishing year round. In this backdrop, giving exclusive right of access to *Jalmohals* only by the “real fishers” (Section 2-Kha) is problematic. Moreover, the ecosystem-based co-management approaches (fish and non fish resources) which tested to be more practical and conducive to enhancement of productivity and biodiversity need mechanisms for multi-stakeholder based management systems.

- **Jalmohals under MoU with other ministries** – The policy keeps the provision that other relevant ministries (viz. MoFL, MoLGRD&C, MoEF) can have *Jalmohals* under MoU in favour of development projects for 6 years with the provision for renewal for successive terms for 6 years. However, the policy lacks provisions/modalities for continuation of access rights of the involved community groups (CBOs) beyond the project end (Section 3-Ka). It says that the *Jalmohals* would return to MoL at the end of MOU period (if not renewed) and put on regular leasing systems again. In such case, the same old traditional extractive leasing system would be re-established with the culmination of the “improved management practices” achieved through investing government, donor, and local community's time and resources. Although it is recognized that conservation of ecosystems is a long term investment, the policy however, does not provide a clear mechanism to provide longer term security of use rights by the project organized CBOs under co-management systems
- **Leasing system as a management tool** - So far, management of *Jalmohals* (wetlands) in Bangladesh became focus mainly on the economic aspect to collect revenue through leasing of *Jalmohals* to fishing communities/fishers cooperatives. The tenure of lease varies according to three categories of leasing systems.

Firstly, the lease is given for a period of 3 years as general rule Secondly, lease is usually given for a period of 6 years under the “development schemes” where the fisher society applies for lease of particular *Jalmohal* directly to the MoL mentioning various activities for the development of *Jalmohal* Thirdly, leasing of *Jalmohals* under development projects of other ministries (viz. MoFL, LGRD&C, MoEF) was given for 5-10 years (in the past), and now is given for 6 years (*Jalmohal* policy-2009) to the project organized fishers/wetland user groups with a condition that the groups manage the *Jalmohals* sustainably. In this case, the lease period can be further extended upon conducting a field assessment by the district and upazila *Jalmohal* committees for another term of 6 years if they find satisfactory management of *Jalmohals* under the project (Amendment 1-Ka Ka).

- **Leasing of Jalmohals to fisher societies through discussions and consensus** – Section 5, Clause 4-Ka of the policy says that if more than one local fisher society comes up with proposals for a particular *Jalmohal* having more or less similar credentials then the District *Jalmohal* Management Committee will lease out the *Jalmohal* for 3 years period through “discussions and consensus”. It is not clearly mentioned who are to discuss what with whom on what the grounds. This may create space for manipulation, confusion and conflicts.
- **Fixing of lease value of Jalmohals** – Section 5, Clause 4-Kha of the policy says that the lease values of *Jalmohals* will be fixed based on the average value of last three years topped up with 5% increase as the base value for the new lease. If last three years lease value is not available then the Deputy Commissioner (DC) will fix the lease value. The policy does not state the basis the lease

value will be fixed. This clause has two loop holes. First, the lease value of *Jalmohals* will keep increasing over the years while in reality the fish production in *Jalmohals* is declining trend due to various natural and anthropogenic issues. Therefore, this increasing trend of lease value will encourage overexploitation which may lead to a collapse of fisheries production and biodiversity in the future. Second, fixing the lease value unilaterally by the DC may affect *Jalmohals'* productivity or may favour the leaseholders if the value is too high or too low respectively. More generally, where leases are allocated to poor fishing communities, this often involves setting what is in effect a high tax on their income and investment in conservation in the interest of a small contribution to national revenue. This contradicts government's objectives of reducing poverty.

- **More than one fisher society may apply for one *Jalmohal* (s)** – Section 5, Clause 4-Ga (and Clause 4-Jha) says that the fisher society(s) located adjacent to the *Jalmohal*(s) will get the priority in accessing the leasing rights. Key concern is raised as, in cases where two separate *Jalmohals* are located side by side they are unequal in terms of productivity and profit earning. In such cases, if more than one local fisher society from more or less same the distance from the *Jalmohals* applies for the more productive one, how the decision will be taken as to who would get which *Jalmohal* and on what ground?
- **Access to *Jalmohals* by outsiders** – Section 5, Clause 4-Cha says if there is no registered fisher society near a particular *Jalmohal* then fisher societies from adjacent upazila or district can be considered for awarding the lease. In reality, there is no *Jalmohal* in Bangladesh that remains unfished due to the absence of fishers. A good number of local people, mainly the landless, adjacent to all wetland sites become fishers during the monsoon. To this end, in most cases there has been an unwritten understanding and arrangement among the local communities/ fishers (seasonal) with the lease holders that allows fishing by the local people. In this backdrop, establishing fishing rights and control of *Jalmohals* by the fishers cooperatives/ societies) from outside (another upazila or district) would not only create local conflicts but also encourage the lease holders to violate leasing agreements as it is likely that the lease holders would offer sub-

leasing agreements with local influential people and that arrangement would exploit local poor fishers by collecting high tolls for fishing. This also encourages destructive fishing.

- **Monitoring of leased *Jalmohals* management** – Article 5, Clause 4-Tha says the leaseholders shall submit an annual progress or performance report to the DC describing the *Jalmohal* development /management/ enhancement activities. It also says that the district/ upazila *Jalmohal* management committee or DC/UNO shall pay visits in person to the leased *Jalmohals* from time to time to monitor the management practices and will take legal action if any non-compliance of lease document/ agreement is noticed. This is again very open, vague and would facilitate non-compliance of the policy.
- **DoF officials are included as mere members of JMC**– the District and Upazila JMCs are given the authority to issue lease of *Jalmohals* to fisher cooperatives/ societies (Section 5, Clause 6 and Section 6). However, the key office bearers of the committee (Chairman and Member Secretary) both come from the administration while the relevant fisheries technical personnel (District Fisheries Officer and Upazila Fisheries Officer) of the DoF are included in the committees as mere members that may hinder technical review of the lease proposals. It is also seen that out of 16 members of district JMC, presence of 5 (five) members (30.25%) fulfills the quorum. On the other hand 25% members in JMC comprise personnel from the administration including two key positions viz. Chairman (DC) and Member Secretary (RDC). It appears that the decisions would be dominated by the administrative personnel (DC, ADC-Revenue, AC-Land, RDC and UNO). Moreover, the amendment of the policy (2012-section 4) says that if in any upazila, *the position* of AC Land is vacant then the Upazila Fisheries Officer will act as the Member Secretary of the Upazila JMC for leasing of *Jalmohals* up to 20 acres.
- **Member of Parliament (MP) as advisor to JMCs**– the policy kept provision that the concerned MPs would be the advisor to both district and upazila JMCs who may influence the final decisions as to which fisher society would receive the lease and there is high risk of favoring the partisan outweighing the technical and social considerations.

- **Committee at MoL to review and approve leasing of *Jalmohals* under development schemes** - The amendment of the policy (2012, Section 5) reorganized a 7-member high level committee at the MoL to review and approve the *Jalmohals* under development schemes for issuing lease for

6 years at a stretch. This amendment has given exclusive rights of taking technical decision for approving leasing of *Jalmohals* under development schemes. Non-inclusion of technical personnel (such as DoF, BFRI) may create scope for improper assessment of the technical aspects of development schemes.

5. Recommendations



Key participants: Representatives from Governments; Ministry of Land, Department of Fisheries, Department of Environment, Department of Agriculture Extension, Department of Social Services, Department of Cooperatives, Bangladesh Hoar and Wetland Development Board, Bangladesh Water Development Board. Representatives from NGO were, WBRP, CNRS, BCAS, CREL, BAPA & UP Trust, IUCN, WFC. Representatives of National Matshyajibi Somity and Dal as well as academic, expert and media were participated.

National roundtable discussion was held on 3rd September, 2013 at The Daily Star Conference Room, Dhaka .

In the national roundtable workshop, the following recommendations were made based on the outcomes of the review of national *Jalmohal* policy-2009, field investigations and consultation workshops at upazila, district and regional levels with concerned stakeholders.

- *Jalmohal* leasing principle from the ecological standpoints should stand on four pillars viz: i) Restoration, ii) Protection, iii) Preservation, and iv) Wise use to sustain the wetland productivity and biodiversity.
- *Jalmohal* leasing principle from the social standpoint should stand on three pillars viz: i) pro-poor use rights, ii) fair lease values, iii) secure tenure. In place of adopting “*jaal jar, jola tar*” principle we suggest an alternative principle which says “*Jibika jader mach dhora, jolar adhiker pabe tara*”-(those whose livelihood is fishing, would get the rights of access to *Jalmohals*). Fishermen who have ID card should also be considered. This principle will largely ensure reaching the fishing dependent communities to have access to *Jalmohals* with possible exclusion of rich influential who invest and control the leasing.
- In case of two or more fishermen societies in one village the wetland should be given to all fishermen society as a single body for collective management.
- The DFOs and UFOs should be included as member secretaries (instead of members) in the district and upazila JMCs, respectively with a view to ensure taking appropriate decisions on technical and sustainable management of *Jalmohals* under leasing systems.
- The JMCs should include representatives from BWDB, Women Affairs, LGRD, DAE, NGOs and environmental experts for taking inclusive and well informed decisions. Decisions should undertake in the presence of two-third of the total JMC members instead of fulfilling quorum with only five members.
- Policy should have clear provisions for the sustenance of co-management of *Jalmohals* under MoU.
- There should be an inter-ministerial high level committee on *Jalmohal* management with the inclusion of technical persons from the DoF, BFRI, universities and wetland based NGOs to take

policy decisions for improved ecological management of *Jalmohals*.

- The provision for leasing *Jalmohals* under development schemes (for 6 years) to fishers cooperatives should be stopped when the lease holder do not comply with their stated development commitments
- An urgent inventory is needed to update the status of *Jalmohals* for making informed and realistic development strategy and plans. A physical inventory should clearly determine the size and delineate the boundaries of wetlands and a biological inventory should list the flora and fauna of the wetlands. Based on the outcome of nationwide wetland inventory, urgent measures should be taken to restore degraded or semi-degraded wetlands and re-establishing connectivity between the river and floodplain. This inventory should also help estimating modest lease value of *Jalmohals* to enable fisher communities to pay lease money without encouraging over exploitation, irrespective of the size of *Jalmohals* and averaging past lease values.
- Every *Jalmohals* to be established and maintained as wetland sanctuaries to conserve fisheries/wetland biodiversity under the technical guidance of the MoFL/DoF. Where an entire *Jalmohal* becomes a sanctuary it is to be freed from the leasing system, or where a part is maintained as a

long term sanctuary there should be a reduction in the lease rate as long as these are maintained.

- *Jalmohals* have high lease value, provisions can be made to pay lease money in installments to reduce the debt burden of fishers and keep them free from the influence of *mohajons* (hidden lease holders) who often control the lease from behind the curtain.
- There should be no advisor to the district and upazila JMCs— competent members of such committees with mix of administration and technical line agency members can and should take free and fair decisions based on technical merit and qualities of fisher societies and relevant fisheries/wetland based CBOs (under MoU).
- The policy should have a separate section on *khas* pond and Baor management as these are closed water-bodies and need different management systems as well as a section on “flowing river” management as to ensure pro-poor access arrangements and sustainable management of river fisheries.
- A coordination committee or institution need to be formed, which should have a clear mandate to protect wetlands` from any anthropogenic encroachment/ grabbing and environmental pollution and ensure user rights. This institution should create a level playing ground for all stakeholders in wetland management.



6. Conclusion and Way forward

This study identified the challenges and gaps in Government *Jalmohal* Management Policy 2009. Necessary recommendations were developed through a bottom up process in which relevant

stakeholders from local, district, national and regional levels were involved. From the study, major gaps in policy such as, no provision on *khas* pond and Baor management as well as no section on “flowing river” management were identified. Moreover, the

policy does not have any direction on how to internalize the project experiences, such as Community Based Management (CBO). Among the challenges in implementing the policy some crucial issues surfaced. Such as setting principle of policy, defining beneficiary, access rights, determining leasing value and duration, monitoring wetland management and structure of Jalmohal committee are some of the core issues. In recommendation, some vital and crucial points are made in three aspects. First, there is a need of (re)defining the beneficiaries and need to recognize CBOs. Secondly, there is an urgency of (re)structuring Jalmohal Management Committee at the upazila, district and national level by including and excluding members as stated above. For the better management of the wetland, ecology and biodiversity protection issues are to be highlighted in policy advocacy. Thirdly and most importantly, the creation of an umbrella

institution is recommended to avoid overlapping mandate and pluralities of the ministries.

The recommendations were placed and shared at National Policy Dialogue in the presence of the senior government officials in order to develop a consensus on the recommendations. Most of the recommendations were appreciated and accepted. Now, the Department of Fisheries, Bangladesh would have to forward these recommendations to the Ministry of Land which act as the approval body for this policy. For effective advocacy, DoF could engage WARPO, WHWDB, Ministry of Women and Children Affair, NGOs, INGOs. This could enable a common platform from which policy can be reformed. Furthermore, a very clear and specific action plan is needed in order to distribute responsibility as well as benefit of the policy reform. A clear strategy on how to implement this recommendation is also required.

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