



Forest Governance Strategy Group: Core Member Meeting for setting Goals and Structures

Minutes of the meeting

March 24, 2015

Venue: 29, Presidential Estate, Lower Ground Floor, Nizamuddin East, New Delhi

Opening remarks & Purpose of the Meeting

Mr. Sanjay Upadhyay, the managing partner of Enviro Legal Defence Firm convened the first official meeting of the Forest Governance Strategy Group (FGSG) in New Delhi. The event was attended by 9 member participants in person while 2 members joined via Skype. The list of participants is appended as Annex I. Mr. Upadhyay opened the dialogue with a mention that the present group is the first step to take forward both the institution and the learning of the Forest Governance Learning Group (FGLG), an initiative supported by International Institute for Environment and Development (IIED), U.K 11 years ago which culminated in March 2013. During the course of the past FGLG discussions, the members had realized that forest administration in India is stuck in a vicious circle where it is the lowest priority in the political spectrum. The group had agreed the lack of national forum on forest governance has serious implications and that having a dedicated group of experts deliberating on feasible forest sector policy reforms would go a long way in supporting the Ministry of Environment, Forests, and Climate Change (MoEFCC). Accordingly, Enviro Legal Defence Firm (ELDF) with a preliminary support of IIED decided to build on the discussions and lessons learnt from FGLG with a newly formulated national level peer group, team to be known as “Forest Governance Strategy Group” (FGSG), on sustainable forestry in India and later, South Asia.

Mr. Upadhyay stated that FGSG does not aim to be just another network on forest governance but a more action-oriented discussion forum that will lend an added force and knowledge on forestry to the Government of India. As an environmental lawyer with more than two decades of experience, he mentioned that he had gathered more questions than answers to be worked upon. He informed the group about the USAID-supported two year study on Participatory Forest Management (PFM) in India that ELDF has undertaken. ELDF plans to contribute the knowledge resources as well as funds from this project to support the smooth working of FGSG. He requested the participants to share their thoughts on the purpose and structure of the group as well as indulge in the group’s missions in the years to come.



Themes of FGSG

The preliminary themes delineated for the discussion and deliberation for FGSG were shared with the participants along with the rationale and sub-themes that may fall under it.

The following potential themes of FGSG were elaborated by Mr. Upadhyay and opened for participants to comments upon:

- Participatory Forest Management
- REDD+ Readiness
- Forest Diversions, Clearances, Land Use Patterns
- Role of Courts – Law and Policy
- Role of Private Sector
- Forest/Tribal Interface
- Binding and Non-Binding International Instruments related to Forests

It was felt that Forest/Tribal Interface would include discussion on protection of prime forests by the local people, livelihoods and settlements. Participatory Forest Management was suggested to be included within this theme itself crucial part of this theme along with an equal emphasis on the procedural justice. Further, the group would discuss the crucial issues on environmental rule of law and the role of judiciary in the forest governance since Supreme Court of India has been one of the key driving force for forest governance. Whether such judiciary-led forest governance is a good approach in India or not must be given attention. Similarly, the role of private sector in forest governance, such as Bamboo, Pulp and Paper Industries, among others demands focused brainstorming from every stakeholder to create window for their engagement.

After a long consideration, the group came up with the following themes and sub-themes:

- **Forest & People:** Forest/Tribal Interface, Participatory Forest Management, Livelihoods and forest settlements.
- **Law, Policy, Regulatory & Institutions:** including International laws
- **Climate, REDD+ & PES**
- **Markets & Private Sector:** Agroforestry and forest-based enterprises

These themes would be open to any further modification as FGSG decides going forward.



Inputs from the Participating Members

A. **Mr. Subhash Chandra**, IFS, Deputy Inspector General of Forests, Forest Policy & Forest International Cooperation, MOEFCC

Mr. Chandra raised the following points for the consideration and suggested urgent points of inquiry on the next generation forest governance issues:

- He mentioned that India is still stuck to the same arrangement as in 90's. However now forests have strong inter linkages with all other sectors. Due to this the funds coming in to the forestry sector are minimal. There is a need for cross sectoral linkage through fiscal intervention –better packing, better managing, linking enterprising ability of people engaged in forestry activity.
- He also mentioned that JFMC's were more independent in the 90'. There is a need for structural change
- He informed that only 0.1% of funds are allocated from the national GDP for forest sector investments. How to increase the funding and spending in the forest sector without depending on the externally-aided projects when the funding is not coming from public sources? This will have to demonstrate economic returns for investors. He said that investments in forestry needs to increase and not only by the government. To this end, enough flexibility has to be given to allow private investment and involvement of communities in decision making and harvesting in forests. This would imply that PFM has to be result driven, It should give results to all major stakeholder and should be situation specific.
- The image of forest department has to change from “regulator “ to “protector”. There is a need to convince the court that forestry activities are scientific activities and top down directions are not always necessary.
- There is over-regulation by the courts and over-centralization of the forest in India. He mentioned that Court intervention and stress on conservation has stalled harvesting and is affecting enterprises in forestry. He stressed that the focus should be on optimally using the resource of forest.
- The group should make an evidence-based stronger case for seeking enough flexibility for decentralized forest governance. This includes amendments in the Indian Forest Act. Also, the courts need to develop better understanding of the technicalities of forestry.
- Agro-forestry in India is meeting 80% of the domestic demands of the rural and tribal communities. A law, policy and institutional emphasis on the subject would contribute largely to the forest governance and markets surrounding forests.
- Community should be the first line of defence to protect forest resource. Sustainable use, harvest and processing of NTFPs and timber have to be locally-driven for incentivizing the local communities in the better management of forests. Training the local communities for skill development related to NTFPs and thereby, adding value to

the products should be sincerely chalked out in policy and law. The aspirations of the people have to be considered by the government. Similarly, forest crimes have to be monitored through PFM/JFM regime and to involve committee-level people in the forest protection machinery with a robust framework for giving sufficient returns on the valuable work accomplished by them. He mentioned a case study on plantations on highways and road widening projects and stressed on how poor road planning is affecting the plantations by farmers on their land as well as affecting the work undertaken by JFM committees. This exemplifies the need for an integral nature of forests to many other sectors which is currently not recognized. Forest fragmentation and development of roads is one of the major factors affecting the forests in India. There is lack of proper planning and innovative engineering. The thinking and developing infrastructure should be done with “forest landscape conservation” perspective in mind. The current situation of the country’s priority are such that if 100 crores are allocated for National Afforestation work, 200 crores are allocated for the development of National Highways.

- There is need for more coordinated action on the agreed principles of international environmental law, for instance, South-South cooperation has to be build. He also stressed on the need for strengthening international agreement on forestry activities and strengthening global forestry financing. He mentioned that a small window under GEF for forestry financing exists. This needs to increase. India needs a Centre for Forest Policy Studies to articulate concerns of sector to act as think tank at state/central level. He also mentioned that we are not addressing water-forest linkages. He mentioned that Gram sabha's are currently politicised. JFM protects interests of forest dependent people. Forests belong to govt. Gram Sabha has limited jurisdiction. JFMC can work beyond gram sabha jurisdiction. With respect to the rights recognized under FRA, he spoke said that CFR rights recognition needs more thinking.

He concluded by saying that forestry is a professional job and forest officials have to play the role of guide and facilitators, rather than regulators in the implementation of the goals at the local level with the help of the local communities. He promised all his support to the FGSG to introduce meaningful policy reforms.

B. Dr. Sushil Saigal, Institutional Development & Governance Advisor, Forest-PLUS Program participated via Skype and the highlights from his discussion are as follows:

- He shared an experience from a workshop on PFM in Himachal Pradesh and suggested the FGSG can focus on reviving a few important goals and institutions established under PFM, especially with the ongoing work of ELDF with USAID. He mentioned that there were a lot of operational issues under PFM which have lost its essence due to procedural gap and related nitty-gritty. One such example, the Village Development



Funds which were to be established under PFM can be reintroduced through this group's upcoming discussions.

- The group can attempt to create policy suggestions for linking the Green India Mission and JFM. Also, another linkage between Panchayats and JFMCs and, FRCs under FRA and JFMCs must be visited in the light of decentralized forest governance context. The Benefit-sharing arrangement under JFMCs and FRCs needs to be strengthened in a manner that they continue to survive and flourish in the absence of externally supported projects. It is a polarizing debate but exists and needs to be addressed. For instance, some JFMCs in MP and Karnataka are getting good returns.
- Regarding agroforestry, he informed that a new policy was adopted by the Ministry of Agriculture, however the problems at the ground are still persistent leading to loss of enthusiasm. For instance, many of the farmers are still getting half of the market rates. Agroforestry is meeting a lot of the country's needs for domestic, tribal and human welfare but the group can focus on generating detailed policy inputs and reforms drawing experiences from our personal expertise.
- On the issue of NTFPs, he claimed that the country has been involved in a lot of talks without much innovative and concerted action to create its sustainable market, especially data collection of our nationalized products. He shared one example from Shimoga where due to under reporting by the state forest officials on the quantity of NTFP being produced and the quantity of NTFPs utilized for domestic and trade purposes. There is no existing system to capture enough reliable data for the Forest Department or appropriate policy planners for better management of NTFPs.
- The group can indulge in the discussion on payment for ecosystem services and inter-related topics of Biodiversity, traditional knowledge, and National and sub-national REDD+ implementation. The one of the key issues in forest governance is existing disconnect between the valuation of services of forests on the ground and on paper.

C. Mr. Samar Bosu Mullick (aka Sanjay Basu Mullick) , Institute of Community Forest Governance represented the voices of the local communities and presented activists perspectives to the discussion. Following are the highlights:

- He suggested another theme for the FGSG for consideration, i.e. role of forest department and outlook of forest bureaucracy since it is the major stumbling block in the effective governance of forests. He mentioned that relation between administration and forest department needs thinking. The perception of the forest department is still colonial. How to deal with this and change the mindset of the Forest Department needs rethinking. The concerns for tribal people of India cannot be disconnected from fate of India's forests. The Central Government's budget allocation for forest management and afforestation activities clearly portrays where forests and forest-dependent people stand in the national priority. The welfare and rights of the tribals is his main concern with respect to forest management. Forest cannot be separated from people's livelihoods.



- In parts of India, such as Soliga community has been given the titles as per law under FRA but they have no idea what to do with those rights in the forest. As part of forest governance treatise, the role of government to guide the tribals in better management of the available resource must be discussed. Also, the FRA funds are to be devolved to Gram Sabha but that does not happen in reality.
- In central India, forest dependence and livelihood still continues in a major way. The role of FD in these states is rooted in colonial legacy prevents new ideas of collaboration.

D. Mr. Sanjay Upadhyay, ELDF

- He shared his concern that judiciary is not meant to run the forest governance in the country alone. Equally important is the need to improve the knowledge and understanding of the government officials as well as counsels representing the State in the matters before Supreme Court of India and National Green Tribunal.
- The aim of the Chief Justice of India- quick disposal and quick justice- does not always stand true especially in forest matters wherein the name of quick disposal of the case environment has been losing the battle.
- The approach should be to target the “low-hanging fruits” and make an impact. Thus, starting from definition of forest and what judiciary has defined has helped in some ways and also created confusions. It has been laid down in four ways: a) Dictionary meaning; b) notified by government; c) Recorded; and d) Joint identification by local communities and government. The last practice has hardly been followed.
- There has to be a platform where MoEFCC, MoPR, and MoTA senior officials can come together and discuss the overlapping issues.

Regarding the potential members of the groups and invitees for FGSG discussions he suggested that 2 or 3 key positions in forestry in government: ADG forest and ADG wildlife should always be invited irrespective of who is in the position. Also the official responsible PESA (currently Ms. Rashmi Sharma) should be invited.

E. Mr. Sanjay Kumar, Executive Director, Climate Parliament raised pertinent points on the management of forests on common lands and involving people through sustainable incentives:

- He opened the discussion to the participants as to “Why not use the inherent quality of people to be enterprising?” The forest as an asset to the local people would be maintained, used in a sustainable manner, and processed with the help of government schemes for better income generation opportunities.
- He shared an example from the use of common land in England, a category introduced in India during the recording of land by the British Empire. Despite the absence of any legal definition of common lands in England, it is still respected and conserved by



everyone in the country. He urged to brainstorm on instilling the behavioral change in the interaction of forests, people and the government and to strategically mitigate the distrust.

- As regards JFM, he opined that the Gram Sabhas are politicized and there is no system in place to check such politicization of mass opinions. Gram Sabha has limited jurisdiction in terms of forests. JFMCs can work beyond Gram Sabha jurisdiction.

F. Dr. D. Suryakumari, Director, Centre for People's Forestry, Andhra Pradesh suggested the participants to attempt at addressing the following issues:

- A forest has to be defined in the legal and ecological sense for each state and then to be inquired as to its role and what kind of people it serves to. The approach has to be first at the state level to legally define the term "forests" under the broader guidelines of national definition of forest.
- Laws and institutions that govern lives of people to be included in the list of discussion topics.
- Regarding the role of private sector, she sought clarification whether an NGO is included therein. To which the participants shared their understanding that NGOs are here to stay and should stay however private sector would refer to corporate sector.
- She also mentioned that we have gone from British system legal system to American system which is leading the confusion.

G. Dr. Promode Kant, Director, IGREC suggested the approach to be adopted by FGSG in taking up relevant forest issues and create an impact on the overall forest governance.

- He advised that patience is needed to one by one resolve such conflicts at law and policy level on one hand and at the ground on the other hand.
- Social and environmental safeguards need to be reviewed and stringent enforcement has to be the focus on FGSG's future work with the government. It is pertinent to measure the local, social and ecological wellbeing especially in the context of REDD+ readiness.
- As regards JFM, it demonstrated limited success in many parts of India. There are about 100,000 JFMCs that exist on paper in India but not more than 5% must be functional. On the contrary, the community system is more robust than JFMCs in the North East region. Court has further put restrictions on the harvesting of timber or NTFPs, leaving hardly any motivation to support such programs.
- The FGSG needs to address what is the interest of communities in forests. There is a need to question whether there is a superior motive in protecting trees at the cost of people.
- He mentioned that REDD+ needs to have safeguards-environmental and social safeguards to ensure that people and environment are not harmed and are protected.



He gave an example of Indonesia which is planning reduce its emissions by 41% through forestry related activities.

H. Ms. Naysa Ahuja, Senior Associate, Enviro Legal Defence Firm added to the discussion on the role of private sector in forest management and suggested replication of ‘private environmental governance’ and ‘forest supply chain management’ guidelines in the national policy context or through proposals for voluntary guidelines or commitments by extractive industries as a cluster.

I. Dr. Irshad Khan, Former PCCF, Govt. of J&K; Former Sr. Forestry Specialist (World Bank) joined via Skype. Highlights of his opinion:

- India suffers from “policy paralysis” and “forest sector inertia” in the forest governance matters. The main cause of poor implementation of PFM is the result the above two basic issues and these has to be dealt by FGSG together.
- For the effective working of the group, the priority area for each phase must be defined based on how can the group make an impact and at what levels FGSG can intervene.
- The group must communicate collective ideas after complete discussion and agreement to be clear on its stand.

J. Mr. Farhad Vania, Portfolio Management Advisor, GIZ India summed up the discussion by highlighting the following points to be kept as guidelines while taking the activities of FGSG forward:

- He stressed on the need to differentiate message from the medium-need to clearly assess on what is the gap in the medium that this group would try to achieve. The message is all the subjects that we have mentioned in the list. He mentioned that there is a need to understand and think about the change that has been brought about by the group that has been functioning for the past 11 years and on the basis of that there is a need to have a strategy on what the group wants to do and prioritize; what is the first step. For this, it is essential to take a step back and validate what has happened in the past and what purpose did it serve.
- He also mentioned that there is a need to differentiate the mediums and activities as well as kind of messages we should propagate: to ask ourselves as a group, what are the gaps in the existing framework and how the group is going to plug it. We have to match our ambition with what we want to achieve. There is a need for the group to address—“Why do we exist?”
- We have to convince ourselves that past activities served a purpose. That will help the group define its activities whether the group is taking it from here or coming up with something absolutely new.
- The group needs to be strategic and clarify- what is the message, medium, audience of this message and then looking at the themes in future.



- There is a need to examine and validate what has happened in the past in forest governance.

Membership & Administrative Management

- Creating working themes and subgroups for the group :
The Sub-groups within FGSG would be created depending upon the interest of each member and they can specifically sign up for works related thereto.
- FGSG approach:
 - Proactive advising or critical response to new and emergent forest issues
- Membership: fee-based or otherwise
 - Different views on membership for the group were explored. Aspects such as whether membership should be only on an individual basis or on an institutional basis were discussed. It was agreed that institutional membership, should be avoided in case it called for permit and approval. The Government-related membership should be position based like IG wildlife.
 - Dr. Promode Kant opined that it is better to involve members especially government officials in their individual capacity otherwise that would add bureaucracy would include permits and bureaucracy.
 - Mr. Vania stated no position in a strategy group is sacrosanct so membership drive is perhaps not the best way for us to work on this issue. It has to be interest-based. Mr. Upadhyay agreed that no need to seek membership but the idea needs to be propagated and for them to respond whether they are or not part of this interest group with all our critical strength as possible.
 - Overall it was agreed that the group needs to do a need assessment that what we all can get from each other and work a little more inter-connectedly, bringing our expertise in the better way possible.
- Generating resources: It was agreed that funding for group from both members and donors would be taken up in the next meeting.

Outcome of the Meeting

The participating members decided on the following:

- The activities of FGSG would be decided in a democratic manner where the community of practice/experts would decide what and how should FGSG evolve.
- The next meeting was planned to be convened at Civil Services Officers' Institute (CSOI) in April/May 2015. This venue would be effective in getting the attention of the relevant officers and convenient for most of the government officials. The meeting would be held by April/May so that the recommendation of the FGSG can be shared with the government in a timely manner in order to ensure that the government can include the groups' suggestions its upcoming plan of action for the year.



- The group would reach out to the government directly especially, MoEFCC as an expert group deliberating about forest governance in India and offering to help the government in every manner in the better decision-making on forest issues.
- The FGSG members would be invited to the next event with the members of Parliament, as suggested by Mr. Sanjay Kumar. He offered to facilitate a future FGSG event at the parliament where the group can share the major policy reforms and recommendations with the audience.
- The concept paper of the group would be revised as per the comments and decisions made during the course of this meeting and would be circulated among the participants. It would be a Draft concept paper to be finalized at the next meeting.
- The working themes of FGSG were discussed at length by the participating members. The new themes suggested and agreed by the participating members would be added to the draft concept paper and circulated.
- ELDF would be the member secretary of the FGSG. It will be responsible to generate reports, minutes of the meeting, and coordinate the activities for the group going forward.

Annexure I

Registration Sheet

Forest Governance Strategy Group: Core Member Meeting for setting Goals and Structures Brainstorming

March 24, 2015

Venue: 29, Presidential Estate, Lower Ground Floor, Nizamuddin East, New Delhi

SN	Name & Contacts	Signature
1. ✓	Mr. Subhash Chandra, IFS Deputy Inspector General of Forests, Forest Policy & Forest International Cooperation Ministry of Environment, Forests & Climate Change, 6th Floor Vayu Wing, Indira Paryavaran Bhawan, Jorbagh Road, Jorbagh New Delhi-110003	<i>Attended</i>
2.	Dr. Sanjay Kumar, IFS India Director Executive Director e-Parliament CLIMATE PARLIAMENT New Delhi 110019 110029 A-2/27, SAFDARJUNG ENCLAVE, ND-29 SANJAY@CLIMATEPARL.NET	<i>tel. 011-2617609650580</i>
3.	Dr. Pramod Kant, IFS PRAMODE.KANT@AMAPH.CO.UK	<i>Pramod</i>
4.	Mr. Farhad Vania GIZ Office India 21, JorBagh New Delhi	<i>F. Vania</i>
5.	Mr. Samar Bosu Mullick Institute of Community Forest Governance A-B/1 Abhilasha apartment 11 Purulia Road Ranchi - 834001	<i>Samar Bosu Mullick</i>
6.	Dr. D. Suryakumari, Director, Centre for People's Forestry 12-13-483/39, Street No.14, Lane # 6, Nagarjunanagar Colony, Tarnaka, Secunderabad - 500 017	<i>Surya</i>

SN	Name & Contacts	Signature
7.	Dr. Irshad Khan IFS (Retd.) - (via skype:) Hon. Professor, Amity University Former Sr. Forestry Specialist (World Bank), Pr. CCF,J&K, Chairman J&K Pollution Control Board.	<i>via skype</i>
8.	Dr. Sushil Saigal - (via skype:) Institutional Development & Governance Advisor Forest-PLUS Program 53, Lodi Estate New Delhi - 110 003	<i>via skype</i>
9.	Mr. Sanjay Upadhyay Advocate, Supreme Court of India & Managing Partner Enviro Legal Defence Firm; 108-A, Pocket C; Express View Apartments; Noida Expressway; Sector 105; Noida -201301; U.P.	<i>[Handwritten Signature]</i>
10.	Ms. Suparna Jain Advocate 29, Presidential Estate; LGF; Nizamuddin (East) New Delhi-110013	<i>Suparna</i>
11.	Ms. Naysa Ahuja Associate 29, Presidential Estate; LGF; Nizamuddin (East) New Delhi-110013;	<i>Naysa</i>
12.	Ms. Eisha Krishn Associate Enviro Legal Defence Firm; 108-A, Pocket C; Express View Apartments; Noida Expressway; Sector 105; Noida -201301; U.P.	<i>[Handwritten Signature]</i>



Annexure II

Forest Governance Strategy Group: Core Member Meeting for setting Goals and Structures

Brainstorming Session

March 24, 2015

Venue: 29, Presidential Estate, Lower Ground Floor, Nizamuddin East, New Delhi

Tentative Agenda

10:30 am	Opening Remarks and Purpose of the Meeting- Sanjay Upadhyay
11:00 am to 12:00 pm	Vision and Mandate of FGSG Potential Themes of FGSG group <ul style="list-style-type: none">• Participatory Forest Management• REDD+ Readiness• Forest Diversions, Clearances, Land Use Patterns• Role of Courts – Law and Policy• Role of Private Sector• Forest/Tribal Interface• Binding & Non-Binding International Instruments related to Forests
12:00 pm to 01:00 pm	Next Steps: Activities of FGSG <ul style="list-style-type: none">• Immediate action for next 6 months• Long-term Activities
01:00 pm to 01:30 pm	Membership and Institutional collaborations
01:30 pm to 02:00 pm	Vote of thanks—Naysa Ahuja