

Review

The legal aspects of public participation in forest management in Turkey

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Dealing with forest resources management, “participation” emerged as a central theme. There has, for some time, been a growing recognition within the government and society at large that the future of sustainable forest management in Turkey depends on more effective participation of multiple stakeholders. Along with growing appreciation of the potential benefits, these has become more systematic in understanding the factors that currently inhibit wider and more effective use of participatory techniques in Turkey. Over the last decade, there has been a succession of studies pointing to the conclusion that current forest management practices, entrenched institutional arrangements and attitudes, and poorly adapted laws are major constraints on participatory forest management. With specific reference to the legal framework, there is a growing consensus that Turkish legislation falls short of these in most developed countries. This acts as a constraint on participation because of its command and control approach, in which most decisions are made by the state. The principle of rule of law is to ensure compliance and penalise non-compliance with those decisions and the law does not fully reflect current social, economic and environmental realities. The purpose of this study is to focus on the strengths and weaknesses of Turkey’s forest law per se, by highlighting some international lessons and practices that might be useful to Turkey as it considers what future steps should be taken in improving the legal framework for participation in forest management. As a result, this study concluded that public participation requires a well established legal system, public sensitivity and local knowledge for a better participatory forest management.

Key words: Public participation, forests, management, planning, legislation.

INTRODUCTION

There are many rationales and reasons for involving the public in forest management. They range from the very pragmatic to the philosophical. The simple “doing” of public involvement is less important than what happens with the input or data once it is collected. Too often public involvement happens, but the sponsors of public involvement processes find it difficult to use the “outputs” of public involvement (eg. text from public hearings, survey results, focus groups results, etc.) as “inputs” in forest management and planning. This is particularly the case when foresters responsible for running public involvement processes have little background or grounding in the tools of social science; but it is also the case when social scientists contribute to the collection of public values data, but have little understanding of forest

management and planning (Beckley et al., 2005). Recently participation has emerged as a central theme in international and national policy agendas for managing natural resources. Several stakeholders (such as investors, NGO’s, citizens and local people) have been playing an important role throughout the process of formulating forest management planning and programme (Doğru, 2002). “Participation is a core feature of the principles articulated in the four EU Ministerial Conferences for the Protection of Forests in Europe (Strasbourg, Helsinki, Lisbon and Vienna) and national legislation needs to be harmonized. In various ways, the resolutions of these conferences emphasize the importance of “decentralization of decision-making”; national public forums for decision-making; ready availability and access to information; and maintenance and development at national level of sound regulatory, institutional and economic frameworks conducive to enabling and motivating sustainable forest management and long-term

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investment in forestry. Other EU directives and resolutions in the areas of environment and agriculture reinforce these themes" (Lindsay and Güneş, 2003).

In American forestry public participation in forest management and planning has taken place its importance since more recently. Within this context, "public participation has emerged as a key component of forest management and policy decision-making. In Western nations, there has been a marked trend towards more public participation in forestry, as public awareness, concern for environmental values, and activism have increased. This can be seen at both the local level, with new initiatives such as community forests, which entail more control over management of local resources, and the global level, where public opinion affects the international marketplace. The Canadian Council of Forest Ministers' (CCFM) Criteria and Indicators initiative on sustainable forest management and current forest certification systems call for appropriate public participation in decisions related to forest management on publicly owned lands (CCFM 2003, in Beckley et al., 2005). While some nations have traditionally used what is now termed as participatory decision-making in their resource stewardship, North America has been struggling to adapt from an expert-driven, regulatory, and science-based system to a more inclusive and socially responsive model" (Beckley et al., 2005, pp.10).

From pragmatic point of view, most of the time legislation or policy simply mandates public participation in forest management planning. The problem in here with public involvement, as it has been experienced in Canada in the last several decades, is that governments and corporate sponsors of public participation processes have engaged the public only because they have needed to obey a bureaucratic or administrative requirement. On the other hand, Canadian experiences at both federal and provincial levels, along with several national and international market-based certification systems, have identified public participation as a key element of sustainable forest management (Beckley et al., 2005). Public participation is particularly important in forest management and planning.

Since forest resource in Turkey is considered to be a sort of public resource, it may lack the protection, planning and management of its use that its importance would otherwise justify. Its role as a public resource and its public ownership are not well understood, although several statutes have provisions about its legal status (Carter, 2000). To achieve a high level of public participation requires a well-established democracy and good working democratic institutions (Keleş and Ertan, 2002). Along with the increasing recognition of the potential benefits has come more systematic understanding of the factors that currently restrict more comprehensive and effective use of participation in Turkey (Cirelli, 1998). The same is correct in forest management. "Over the last decade, there has been a succession of studies pointing

to the conclusion that current forestry practices, entrenched institutional arrangements and attitudes, and poorly adapted laws are major constraints to participatory approaches (Cirelli and Schmithüssen, 2000). With specific reference to the legal framework, there is a growing consensus that Turkish legislation constrains participation because" (Lindsey and Güneş, 2003), of the following reasons:

1. Essential tendency of law reflects a command and control approach.
2. Most decisions and ultimate monitoring and control are made by the State and the law's principle role is to ensure compliance and penalise non-compliance with those decisions. Incentives for a success are quite limited.
3. The law does not fully conform to current social, economic, rural poverty and local people.
4. Lack of free access to information, which means that the public has limited or no access to relevant information when a forestry practice or planning is in consideration.
5. In terms of Environmental Impact Assessment, investigation of forestry practices and particularly harvesting are not fully legalized, which means that Environmental Impact Assessment and inspection are not required by law for those practices and this causes severe disputes among stakeholders (Erkuran, 2001).
6. Security of property rights is not provided by law, which means that title deed of the lands people owned might be cancelled for some time in the future.

To deal with those points above, rather than focusing anew on the strengths and weaknesses of Turkey's law per se, some lessons and practices come out from international experiences are focused on that might be useful to Turkey as it considers what next steps to take in improving the legal framework for participation in forest management and planning in the immediate future (Özcan, 1996).

"The specific strengths and weaknesses of the existing legal mechanism and some options for improvement will be looked at more closely under the principles that follow. But as a way of framing the discussion in the following pages, it may be useful to mention here, in passing, the range of options that could be considered, now or in the future, concerning the basic legal approach to the granting or recognising of local forest rights" (Lindsay et al., 2006).

First, there are several important points to learn from countries that have gone, or are going, through similar processes of analysis, testing and reform in forest management and planning. Each country's law needs to reflect its own unique forestry conditions, traditions, culture and rural living conditions, but there are

similarities that make it fruitful to learn from the legal reform experiences (both good and bad) of others. Within this context, Turkey is not alone in trying to deal with these problems and develop applicable solutions. Indeed, there is now a wealth of experience worldwide in designing national legal frameworks for participatory forestry and management planning (Lindsey and Güneş, 2003). Second, national laws should cover necessary facts and figures and their legal basis for public participation in forest policy and planning processes, and carries with it obligations and responsibilities for all stakeholder. Then, “effective public participation in forest management and planning requires an open, fair and well-defined process, with generally accepted procedures and timely deadlines for decisions (www.borealforest.org). Third, improving national legal frameworks to enhance participation is called for in several international conventions and proceedings related to natural resources management and sustain-able development, from the Convention on Biodiversity, Agenda 21 and the Rio Forestry Principles, to the WSSD in Johannesburg and the declarations of various international fora such as the UNFF (Lindsey and Güneş, 2003). Based on emerging experience worldwide, as mentioned throughout the text, the most important principles (“building blocks”) of a legal framework that supports participation can be investigated, with the following research questions: For each of these principles, defined in the oncoming pages, to what extent does current Turkish legislation support or not support them? How can gaps and weaknesses in the current legal framework be addressed? (Güneş and Coşkun, 2005). It is also worth emphasizing at the outset that having good laws is important, but the potential benefits should not be over-estimated. If other conditions for effective participation - economic, social, environmental, etc. - are not in place, the impact of good laws may be marginal at best (Güneş and Coşkun, 2005). For example:

- No matter how “good” a law is, people will not participate if they do not foresee some real benefits from doing so. Participation implies costs to those who participate – both opportunity costs and real costs; very few people are likely to see the chance to participate as a valuable end in itself, particularly if there is no prospect for tangible benefits or no real chance to influence an agenda that they care about.
- No matter how “good” a law is, if people do not have the institutional capacity and knowledge to use it, it will be ineffective.
- No matter how “good” a law is, if there is little political or institutional will to implement it, it will be a dead-letter (Lindsey and Güneş, 2003).

As referred above, the purpose of this study is to investigate the pros and cons of Turkey’s forest law per se, that might be useful to Turkey as it considers what

future steps to take in improving the legal framework for participatory forest management.

DEFINITIONS OF PUBLIC PARTICIPATION

The concept “public participation” is applicable for in very diverse fields of life, reflecting different meanings in each areas of its usage. In general, public participation is given an active role to stakeholders in a policy agenda that allows those to play an active role when making a political decision or assessing the success of a public programme implementation. When forest management and planning are in consideration participation might have different definitions, although its meaning in all fields might have some common points. It is therefore worth referring at this stage commonly accepted meanings of participation at both international and national level, since the rest of the discussion relies on these definitions (Güneş and Coşkun, 2005; Destan, 2003; Erdönmez, 2005). Participatory forestry covers processes and mechanisms that enable those people who have a direct stake in forest resources to be part of decision-making in all aspects of forest management from managing resources to formulating and implementing institutional frameworks (FAO Forestry Department, 2002, in Dođru, 2002).

Joint Committee of FAO/ECE/ILO gives another definition for public participation. To those Committee “public participation is more than just a set of tools or a mechanical process. It has been called “a way of thinking and acting” and is defined by the Food and Agriculture Organization of the United Nations (Joint FAO/ECE/ILO Committee, 2000: 7) as “various forms of direct public involvement where people, individually or through organized groups, can exchange information, express opinions and articulate interests, and have the potential to influence decisions or the outcome of specific forestry issues.” At its best, public participation is an inherently two-way process. It should not be confused with public relations, which attempts to convey information in one direction in a manner favoured by the disseminator of the information (Beckley et al., 2005: 14). World Bank uses several definitions for public participation. The most common approved and widely used is a process through which people spend efforts to influence decision making process that affect them. When the term participatory environmentalism is used, people might understand it to mean one or more of the followings (Worldbank, 2001):

- Greater public involvement in national or regional policy decisions;
- Involving local stakeholders in management decisions for specific forest management planning;
- Ensuring access of local people to the benefits of a safe environment, a phrase which itself describes a wide-spectrum of approaches from limited access to more

substantial involvement in all aspects of forest management and planning (for example, where management or even ownership of selected areas is essentially turned over communities or other local groups, with government's role relatively limited).

Turkey's National Forestry Project (NFP) preparing process has adopted a broad endorsement of participation, as is clear from the following key paragraphs: "Participation: all parties and interest groups that are affected by the forests, that claim demands and expectations from the forests or given responsibility in the management of forests should participate in and share the authorities as well as responsibilities and sacrifices, at the all stages (e.g. decision making, planning, implementation, monitoring, assessment, inspection) of forest management. Participation should be institutionalized and legalized. Just and balanced participation of the different parties and interest groups should be supported (Lindsay, 2003). Despite the strong commitment to participation evidenced by these paragraphs, the NFP documents are frank in admitting that Turkey's experience on the ground with specific participatory modalities is quite limited. Thus there is not yet a widely-shared "vision" of what specific types of participation are appropriate and workable in different contexts in Turkey (Güneş and Coşkun, 2005).

"The public participation process is clearly defined with goals, operating rules, timelines, communication plans, resources, roles, responsibilities and obligations of participants, decision-making methodology, accountability for decisions, mechanism to adjust the process, access to information, and a dispute resolution mechanism" (Nash, 2002: 35).

In brief, as is apparent from the above definitions, participatory forest management and planning is a term that refers to a wide spectrum of methodologies and tools that vary depending on the nature of the resources and the needs, capacities and expectations of stakeholders. For example, the nature and objectives of participation may differ considerably between countries where people are facing severe environmental problems and countries where there is a much safer and cleaner environment (Güneş and Coşkun, 2005).

INTERNATIONALLY EMERGING PRINCIPLES OF EFFICIENT PUBLIC PARTICIPATION AND THEIR APPLICABILITY IN TURKEY'S FOREST MANAGEMENT

For efficient participation it is important for the legal framework to be quite flexible, to allow experimentation and adaptation to lessons to be learned in the coming years, rather than immediately selecting and prescribing

in detail a particular participatory strategy. Thus, rather than suggesting precise and detailed amendments to existing laws, the paper presents some emerging principles that could be considered while revising the legal framework. For each principle, some international experience is given, and an analysis is made to determine the relevance and deficiency of that experience for Turkey's environmental legislation (Lindsay and Güneş, 2003). In addition, there is recognition that all parties, interest groups, and the general public, who are affected by environmental degradation and have demands and expectations of the environment, are given responsibility in the planning of forest management. They should participate in and share the authority, responsibility and sacrifices at all stages of forest management and planning. Thus the Turkish legislation relevant to forest management from participatory planning perspective is analysed and the gaps and deficiencies as well as contradictions in legislation are criticised (Lindsay and Güneş, 2003). Beyond that public participation in forest management planning is based on the following principles as well (Hauxby, 2001):

The legal framework should provide public participation as an integral part of, and complementary to, the planning and decision making process

At present it is quite common that people live next to or within the forest resources should be given a particular privilege for forest management. Since their survival almost depend on sustainability and wise use of forest resources, experts who are authorized to make forest management planning should consider particularly local people to express their view, thoughts and interests on those resources. This becomes particularly important in the case of decisions affecting the livelihoods of forest villages living in or near forests. Governments all over the world have recognized that it almost impossible to manage and protect all forests by relying solely on agents of the state. Incentives to play a crucial role in the protection and sound use of forests by those local people require a feeling of commitment to forest resources by those. To ensure this commitment, management plans need to reflect the priorities and interests of those people as much as possible. Local people must believe that the benefits of participation outweigh the costs. This in turn requires and ensures that forests are planned and managed in a manner that reflects the needs and values of those. This is less likely to happen if those choices are made entirely by forestry bureaucrats in capital city without active consultation with local people (Lindsay and Güneş, 2003).

"Elsewhere, there is a discernable trend towards greater local involvement in management decisions.

Many forest laws now provide for public meetings and hearings, access to available information - including draft plans - and opportunities to comment throughout the planning process (Estonia's Forest Act of 1998, Finland's Forest Act of 1996, Nicaragua's Forest Regulations of 1993, to name a few). Further, the public is sometimes allowed to participate even in the implementation, monitoring, assessment and revision of the plans, as is the case for provincial forest plans in the Canadian provinces of Ontario (Crown Forest Sustainability Act of 1994) and Saskatchewan (1996 Forest Resources Management Act). In a number of laws, the scope of management plans has explicitly been expanded from a purely technical exercise to covering social and environmental functions of forests, including impact on local populations. As in older forest laws around the world, management planning is viewed as a technical exercise undertaken by foresters, with no consultation required or contemplated" (Lindsay and Güneş, 2003: 10).

However, the Counsel of Environment and Forestry has advised in its meeting that participatory management was essential element of sustainability. However, Turkey enacted a new law of accessing information in 2003. This law is of course applicable to forestry issues, but not satisfactory enough to meet the expectations of forest managers. In the case of Turkey the forest legislation has been criticised for many years as reflecting command and control approach and embodying the idea that centrally planned forest management is better than that of involvement of local people. In reality, involvement of forest villagers has a great deal to offer forest planners and managers, as foresters working on the ground know full well. For example, forest villagers living in north-eastern parts of the Country have extensive knowledge concerning the successful practice of beekeeping near forests. It is a well management option that experts located in Ankara are often simply not be aware of. Diverse and creative management and planning options such as these can frequently be better identified and developed by such local people than by central planners or experts (Lindsay and Güneş, 2003).

As in older laws around the world, forest management planning is viewed as a technical exercise undertaken by experts, with no local consultation required or contemplated. In addition, as a matter of practice, planning criteria and objectives still largely focus on the state's demands, ignoring the necessities of local people. Social functions and biodiversity values of the environment and non-economic products such as scenic beauty, fresh air etc., are generally underemphasised, and no reference is made in applicable laws to the principles of sustainable development (Özcan, 1996). However, current forest legislation does not allow public participation in forest management planning explicitly. Article 26 of Forest

Code of 1956, No: 6831 requires State making forest management plans. The said article does not say anything about public involvement and participation in planning process. As a recommendation, the said law should be amended reflecting involvement of peoples' participation in forest management planning. In revising its forest laws, Turkey should consider provisions designed to ensure local input into management planning, and the inclusion of local influence considerations in the planning process. Operationalising such a reform will require as well a more decentralised approach to forest decision making. Turkey should consider provisions designed to ensure local input into management planning, and the inclusion of local impact considerations in the forest planning process. Putting such a reform into operation will also require a more decentralised approach to forest planning decision making (Lindsay and Güneş, 2003).

The legal framework should provide public participation which occurs throughout each stage of the process

Public participation is a process that has been exposed in some stages of public policy. This means that public might participate in policy making process at some particular stages as decision making, planning, enforcement, monitoring, and inspection an action. In this part of the article these stages will be discussed in detail (Güneş and Coşkun, 2005). Management planning is also a continuous process starting from collecting data for forest inventory to implementing the prepared plans. Presumably, forest stakeholders are affected by management plans as a whole, which means that we cannot say that public participation in one stage of planning process is enough for reflecting demands of local people. Instead, people should be involved in all stages of management planning (Lindsay and Güneş, 2003).

Beyond that, public participation in inspection and monitoring of implementing forest management plans, for example, may be achieved through voluntary organised and entitled groups of people like NGO's and ombudsman. However, current forest legislation does not allow such a management structure, because of special provisions of current Constitution and some provisions of current Forest Code. Those laws only authorizes the State deal with all stages of plan making, implementation and inspection and monitoring. In the case of Turkey the forest legislation has been criticised for years not including any sound and clear provisions allowing people in decision making process in all stages. However, expert foresters authorized to make forest management planning gather information from local people in some cases in an unofficial manner. On the other hand, when forest land surveying work is in progress forest villagers are acknowledged that forest land surveying will take

place in their vicinity. And thus, they may keep in touch with forestry officials and convey their interests and concern in an unofficial manner.

The legal framework should provide public participation that will recognise the diversity of values and opinions that exist within and between communities

Arguably, an important motivation for engaging in public participation activities is that such processes lend legitimacy to the final outcome. If forest management decision-making is undertaken in an inclusive and democratic manner, with all interested and affected individuals at the table, the decisions that flow from these processes gain a social acceptability that is crucial when specific forest management decisions are undertaken. Given developing trends in certification, the widespread recognition of the importance of gaining social license to manage forests, and our growing understanding of the differences between public involvement and effective public involvement, it is unlikely that “going through the motions” of public involvement will be satisfactory or sufficient in the very near future (Beckley et al., 2005, pp. 18).

In vast and expanded countries like Turkey forest resources are diverse in terms of tree species, values and contributions to rural livelihood. Likewise local cultures, values, beliefs and traditions are diversified throughout the Country. In such a rich and diverse natural resources offer a very many opportunity and benefits for forest villagers. Such different and diversified communities might have different expectations and interests on those resources. Therefore, each community's interests must be represented in management planning. In revising its law Turkey should consider the interests of forest villagers and other stakeholders. Then, non wood forest products posing economic potential should be considered in management plans. To deal with those issues Forest Code of 6831 should be amended and all those interests are to be reflected in the laws.

The legal framework should provide public participation program which requires adequate time and resources; money and skilled staff

Public participation needs a particular time period for providing satisfactory participation level. On the other hand, a particular budget for participation should be set aside for public consultation in respect to developing forest management plans. Also adequate personnel should be trained and well educated about public participation techniques (Parks and Wildlife Commission of the Northern Territory, 2002). With many course and training participants find opportunities exposing their

ideas and approaches for the first time. Interactive discussions on core issues broadened their understanding in the legislative context. This in turn could enable the law makers to take a more interactive and participatory approach to their work when developing and implementing forestry programs and management plans. People who participate in forest management planning process themselves have to be trained to participate more, and to be made more aware of their rights through the whole range of state and other institutions that manage and interfere with their lives (Tanner et al., 2006).

“It is not only a lack of political will that stops state officials using participatory approaches; often they simply lack the necessary know-how, skills and experience. This is true even with NGO workers, with huge differences between the life experiences of those now growing up in the cities and those with a rural upbringing. This creates difficulties in communication between those responsible for facilitating participation in practice, who are mostly from urban areas, and the participants themselves. Far more training and support in participatory methods and planning is needed for management and other entities involved in carrying out programmes and administering resources. A systematized and institutionalized political network at local levels needs to be created in a way that is sustainable and replicable” (Tanner et al., 2006: 66).

In the case of Turkey forest law has been criticised with respect to not allowing active public participation process, allocating budget and training staff to implement participation process. When revising its law Turkey should coerce the State allocating some money for public participation, developing training program and establish a sound linkage between forest villagers, other stakeholders and forest management planners.

The legal framework should provide the outcomes of public participation that must form part of the decision-making process

Public participation is important in forest management planning with respect to the following three reasons: It improves decision making process, bring about sustainable development and contribution of forest resources to rural livelihoods and normalise the attitudes of stakeholders. This leads improved decision making process by making it more transparent, fair, in a timely manner and inclusive. This also builds a trust and shared vision among stakeholders and planners. Then public participation gives an opportunity to incorporate their views, opinions and perspectives of the people who are influenced. Sustainable development requires the

integrity of several factors like social, economic and physical environment (Republic of South Africa Department of Water Affairs and Forestry, 2001).

In the case of Turkey not any laws requires the outcomes of public participation must be put into relevant document, laws, programs etc. When revising its laws Turkey should amend forest legislation and its provisions coercing the expert planners to put the outcomes of public participation process into forest management plans. In addition, internally emerging principles relevant to efficient participation, the following principles are also to be considered in sustainable forest management (Lindsay and Güneş, 2003):

The legal framework should provide public participation in forestry decision-making at the national and regional levels

If forest management and planning is to accommodate multiple interests of all stakeholders, the legal framework needs to provide an effective mechanism by which diverse stakeholders can make their interests known. This is as important at national, regional and local levels as it is at the level of particular areas or communities. The assumption is that greater public participation can improve the quality of decisions, improve the public's respect for those decisions, and improve public perception of Government. The question is whether the existing legal framework facilitates or constrains this approach (Lindsay and Güneş, 2003). In general, Turkey's forest legislation is silent on the question of how policy should be made and what role if any non-governmental stakeholders and, indeed, NGOs, should have in that process. Instead, it focuses almost exclusively on the powers and duties of government with respect to making forest management plans by other parties. In contrast, public participation in formulating forest policy and regulation, and in overseeing their implementation, now figures prominently in forest legislation in other countries.

In updating its forest legislation, Turkey should consider the creation of a legally-mandated public consultation body. Such a revision will be essential for announcing protected areas, especially in private ownership, simply because, under the current legislation, like Gelibolu Historical Peninsula National Park Law of 2000, No: 4533, restricts some usage rights of private individuals without just compensation. Even when notifying areas for protection the State does not consult local people, but only puts a central planning and decision-making mechanism into operation. In essence the State has a statutory right to confiscate such areas and the compensatory payment it makes do reflect real market price based on recent alteration in the Law of Expropriation, but it increases the cost to the state. On the other hand, current Forest Code does not include any

provisions mandating public participation in when making forest management planning. Within this context, forest management plans must be submitted to the public before approval. Such provisions are often initially viewed as burdensome by government officials who are worried that the process of plan adoption or regulatory reform will grind to a halt under an avalanche of comments. In fact, such fears are usually exaggerated, and, indeed, the process can serve very pragmatic purposes. It can lead to greater public "ownership" of new rules and laws, increasing acceptance and improving the level of compliance. It can also help ensure that legal provisions are drafted in practical and realistic terms (Lindsay and Güneş, 2003).

The legal framework should promote transparency and accountability in forest management and planning

Participation at all levels can only be effective if information and actions about forest management are open to public scrutiny. Trends in support of this principle include community organizations that need to exist for there to be a chance of real participation. According to this analysis the community institutions need to be established the following points:

1. All interest groups and stake holders have to be given an opportunity to participate, and less favoured groups of the society should be paid particular attention.
2. All members should be given the same opportunity to express their opinion.
3. Only the members of an organization are to be authorized to take decisions on the basis of their best judgment and people from outside stakeholders are not allowed to interfere to manipulate decisions for their own advantage.
4. Stake holders are given a certain level of discretion to represent members and decisions they take in this regard are respected.
5. Interest groups and forest villagers should see their organizations as a legitimate way to express their views rather than just a way to obtain benefits (Tanner et al., 2006).
6. In forest management and planning, transparency and communication are essential. Strictly inter-related concept of those two creates an effective communication strategy, on its own, will not necessarily result in increased responsibility if there are no clear norms for decision-making and giving out information (Serrano, 2002, in Tanner et al., 2006).

Increasingly, countries have recognized that meaningful civil society involvement in all facets of public life requires better public access to Government information, access which may at times be constrained by antiquated legal

controls and overly-broad definitions of “national security” or “classified information”. Also, the accuracy of official statistics or the availability of statistics in all fields is a problem. For example, in Turkey it is almost impossible to obtain reliable data or statistics for some issues such as illegal logging, the real economic value of environmental assets such as air, clean water etc., the contribution of the forest industry to the national economy, as well as unemployment (Haan, 1998).

Turkey has recently passed a freedom-of-information law. At national levels, there are a growing number of freedom-of-information laws that provide mechanisms by which the public can gain access to a wide variety of information about forest management planning (Lindsay and Güneş, 2003). Thus, as in many new laws, management plans cannot be legally adopted by the relevant administration without first having been publicised and subjected to comment. Also, the law has some articles that are in use to penalize officers who fail to implement the law routinely or avoid releasing requested data or information and avoid giving a copy of a requested document (Lindsay, 2003). Here the real problem is that participation in decision making or other stages of policy making and monitoring can be considered as a culture, culture of governance or democracy. Democratic culture in Turkey is not yet well developed, and it may take some period of time to establish a sound democracy and its main institutions. Thus, agreeing a law is important, but implementing that law is just as important as establishing it. So, it is essential to be patient and wait to see if the implementation of the law will be successful (Güneş and Coşkun, 2005).

The legal framework should provide easy and flexible ways by which people can form organizations to participate in forest management planning activities at various levels

In general forest resources are relatively close to local people. Millions of people around the world live within or next to forest resources. Their survival totally depends on the sustainability of those resources. However, those groups need legal basis by which they can organize around forest related issues. This is particularly important for groups, like forest villagers, that hope to acquire rights in local natural resources and environmental values – they need to be legally recognised organizations with the ability to own property, receive funds, negotiate with government and the private sector, etc. Forming an association is a fundamental right, established in the Turkish Constitution of 1982. Freedom of founding an association and practicing freely to reach any legal objectives is held within the scope of fundamental rights and obligations. According to the article, every citizen has a right to establish an association without getting prior

legal permission. The same article also regulates how to protest against any government activity as long as one does not carry any weapon and does not use physical force. However, use of these rights is tied to such strict rules and governmental decrees that the citizens are afraid to do so (Lindsay and Güneş, 2003).

Unlike in some countries, in rural Turkey, villages are considered as legal entities; they have a mayor (Muhtar) and a village council who are authorized to make all kinds of decisions that affect the village. This is raised here simply as a cautionary note, for the drafters of any future legislation to bear in mind. There are three noteworthy features that came to the authors’ attention, however, that suggest that this may not be a significant problem in rural communities of Turkey. First, the status of Turkish villages, with their recognized administrative structures, provides a legal entity at the local level which might logically play a principle role in any future devolution strategies. Second, the law of association is relatively easy and inexpensive to use, though local people may need access to better information and training on how to form associations (Haan, 1998). Whatever institutional forms are required or allowed by law, it will be important to consider putting basic protections within the applicable law to ensure that local organizations operate with a sufficient degree of transparency, accountability and fairness.

The legal framework should facilitate decentralization, where appropriate, of forest management and planning

Decentralisation is one of the key issues in forest management and planning. This is increasingly emphasized in laws as a way of ensuring that environmental decision-making is more responsive to local needs and realities. It is important to point out that decentralization does not necessarily enhance local participation, if care is not taken to ensure that newly-decentralized officers do not just take all their orders from the centre. “True” decentralization requires significant accountability to local people, as well as providing the power to make appropriate decisions at local levels (Lindsay, 2003). In current Turkish law, authority is centralised, and there is generally little scope for decision-making or flexibility by local officials. Yet there are local management experiments that require flexibility for local people and local-level officials to work out arrangements that are sensible in local conditions, and that strike an appropriate balance between the protective role of the state, and the resource and income needs of rural people who can benefit from some degree of local management, and to work with villagers or individuals to develop a viable solution for that land. The law should be flexible enough to allow mixed uses of land, where due to economic, biological and social conditions. Of course, higher levels of the

administration will want to define carefully the types of areas in which local decisions can be made. They will also want to guard against corruption and abuse of authority. However, unless lower level officials are encouraged to take some initiatives and provided with some decision-making power, the system will not be responsive to local needs, and the flexibility required for successful local participation will be missing (Özcan, 1996).

The policy direction in Turkey is towards decentralization; hence, it is a high-priority to examine the legal framework with this policy direction in mind. On the other hand, the legal framework should provide effective channels for people to resolve disputes or express grievances. Legal rights and responsibilities spelled out in legislation can become ineffective or useless in practice, unless people have a realistic way to seek timely, cost-effective and fair vindication of their rights or resolution of their disputes. At the international level there is increasing emphasis on informal or alternative mechanisms for the resolution of disputes (Lindsay and Güneş, 2003).

RESULTS AND DISCUSSION

Public participation is an essential theme recently emerged in forest management and planning, which enhances the quality of decision-making and allowing the public to play an active role in decision making. Current forest legislation does not have any particular provision that mandates public participation in forest management and planning. On the other hand, several articles and regulations in Turkish legal system have provisions that imply public participation. Moreover, those statements have been scattered throughout the legislation in difficultly recognized spots. Therefore, we can say that public participation is not understood well at higher level of bureaucracy. There should be a drive to interpret the Turkish Constitution so as to find a legal basis for public participation. However, agencies and judges interpret public participation differently. Beyond that public participation process requires a well established statutory advisory body that should be involved in the process and should reflect the views of stakeholders. Such a consultation body should be put into the necessary legislation, adding a requirement that decision makers consult with particularly local people.

On the other hand, forest management planning is essential for sound and lively local communities to survive. Since there is no stable or commonly understood meaning of public participation in the eyes of high-level bureaucrats, not all of the agencies consider the public's opinion evenly. Some agencies pay more attention to public opinion, whereas the rest just ignore the expressions, thoughts, and ideas of the general populace. As a solution, it can be said that Turkey should

enact related laws and regulations, or amend current environmental legislation that gives explicit and detailed rights of public participation. Since becoming an EU member is part of the current policy agenda, Turkey has guaranteed to amend current legislation and enact new statutes on several subjects, so there exists an opportunity for the Turkish government to establish provisions allowing public participation in all kinds of environmental agendas. Local input might be particularly crucial for central planners when making and applying forest management plans at local level. Therefore a legal mechanism that allows especially local people to participate in management planning process should be provisioned in relevant legislations. There still arises the question that none of those statutes provides explicit rights of public participation. Beyond that, none of the mentioned statutes are in force, especially those concerning practical forest management and planning issues. There is insufficient public sensitivity to forest management and planning issues to fully satisfy the foresters. Thus, to make public participation work well in the decision-making process, extra efforts must be made to increase public consciousness. Besides that, public participation, in such a closed country as Turkey, is ill defined. Not only the Turkish Constitution but also forest legislation does not have any provision that guarantees public participation. However, it can be referred from both that they implicitly allows public participation in forest management. Equally, that legislation has no provision that bans public participation, meaning that public participation is implicitly allowed in the Turkish Constitution and forest legislation.

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