

# Tracking the Forests Rights Act in Nameri National Park & Sonai Rupai Wildlife Sanctuary, Assam

## An Investigative Report

### QUESTION

**What are the implications of the Forest Rights Act for Nameri NP, Sonai Rupai WLS and forest dwelling communities in Sonitpur District, Assam?**

### IMPORTANT PROVISIONS OF THE FOREST RIGHTS ACT, 2006

#### Who is eligible?

- » Forest dwelling Scheduled Tribes who primarily depend on or reside in forests prior to 13 Dec 2005
- » Other traditional forest dwellers who primarily depend on or reside in forests prior to 1930

#### Individuals and communities can claim the following rights:

- » right to forest land (up to 4ha) under actual occupation as of 2005 (STs) and 1930 (others)
- » right to collect, use and dispose non-timber forest produce
- » community rights of use (fish, water bodies, grazing, seasonal access for nomadic communities)
- » right to habitation for primitive tribal groups
- » right to convert forest, un-surveyed and other villages in the forest to revenue villages
- » right to protect any community forest resource which has been traditionally conserved
- » right to intellectual property in traditional knowledge related to biodiversity
- » rights to basic developmental facilities (schools, hospitals etc.), specific conditions apply

#### Other conditions:

- » rights are non-alienable, can be inherited but not transferred to another person
- » no forest dweller can be evicted till his/her rights are recognised
- » all forest rights must be recognized inside National Parks & Wildlife Sanctuaries.
- » subsequently, Critical Wildlife Habitat or inviolate areas may be implemented with due process

### FORESTS IN SONITPUR: NAMERI NP & SONAI RUPAI WLS

Area of Nameri NP: 200 sq.km, declared in 1998

Area Sonai Rupai WLS: 220 sq.km, declared in 1998

Important Forests } Charduar: 46,107.24 ha

Reserved Forests } Balipara: 18,974 ha

Forests } Sengelimari: 340 ha

Landscape mosaic: Moist deciduous and sub-tropical evergreen forest fragments, grasslands patches, rivers, human settlements, agricultural land

Ecological value of region: Large number of endemic and endangered wildlife species, including spot-billed ibis and white-winged wood duck. Sonai Rupai is primary re-introduction site of the pygmy hog (*Porcula salvania*)

Population in Sonitpur Dist: 1,681,512 (2001)

House type: Permanent: 23.4%

Semi-permanent: 23.9%

Temporary: 52.7%



Unknown

### STATUS OF FOREST COVER

- » Satellite remote sensing and GIS studies highlight large-scale deforestation in Sonitpur District
- » Major driver of deforestation is reported to be occupation of forest land due to a political movement to establish autonomous governance through a majority of Bodo Scheduled Tribe

**Table 1: Changes in land use categories in Sonitpur District**

Land use	Area (in hectares)		
	1994	1999	2007
Dense forest	75,457.98	44,061.39	32,241.24
Degraded forest / homestead garden	44,395.21	190,240.71	144,147.33
Total area	528,345.95	528,363.31	528,384.15

1. Dense forests recorded a loss of 43,216.74 hectares (from 14% to 6% of the total area)  
2. Degraded forests and homestead gardens showed a significant increase

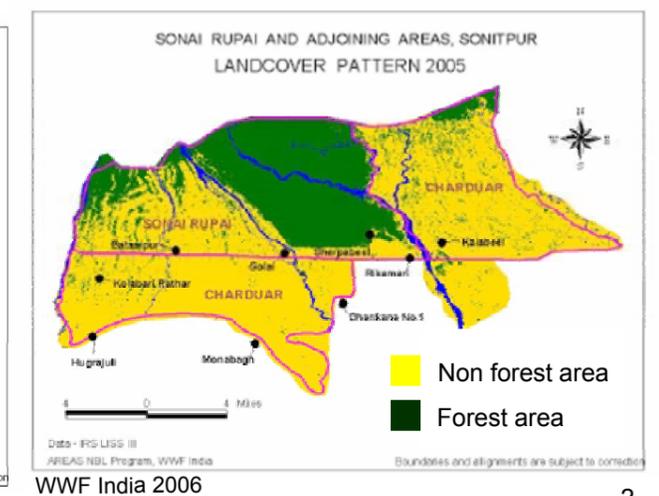
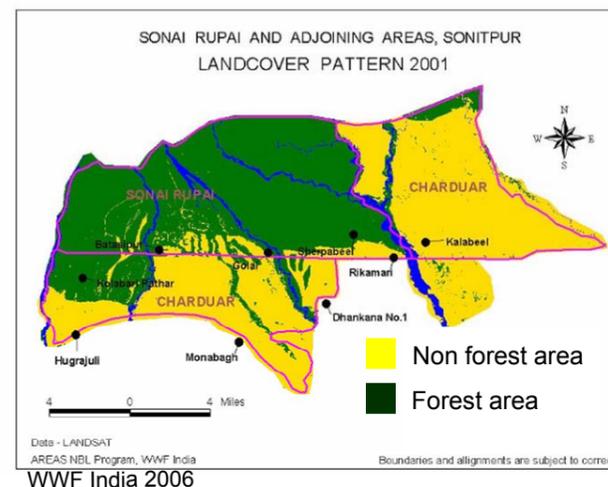
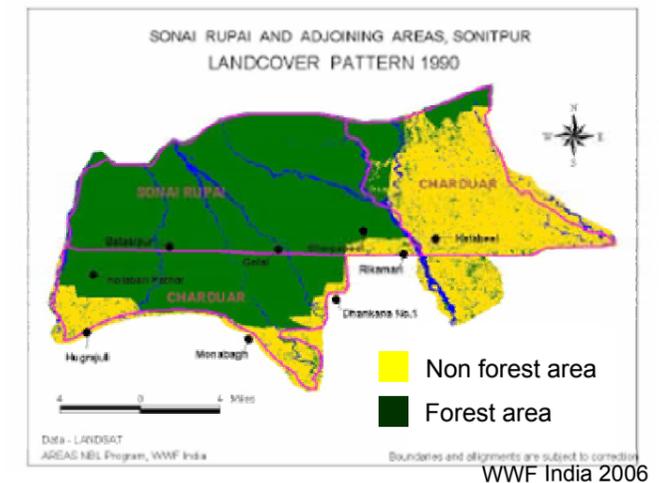
Saikia et al (date unknown)

#### Key figures:

- » 29% (354.08 km<sup>2</sup>) of total forest cover was lost between 1990 and 2001
- » Average annual rate of deforestation in Sonitpur was 28.65% between 1994-2001, highest rate of deforestation in India
- » Nearly all deforested area has been converted to human settlements and agriculture land

#### Forest loss in important wildlife areas:

- » In Sonai Rupai WLS, decline in forest cover was 35% between 2001 and 2005
- » In 2006, only 58% (128km<sup>2</sup>) of Sonai Rupai WLS was under forest cover
- » Buffer areas of Nameri NP, Charduar and Balipara RFs have also suffered severe forest loss



## STATUS OF FOREST RIGHTS ACT & PEOPLE'S PERCEPTIONS

Open-ended household level interviews and focus group discussions were held to understand the perceptions of six different groups:

1. Scheduled Tribe 'encroached' settlements
2. Scheduled Tribe Revenue Villages
3. Non-tribal Forest Villages
4. Scheduled Tribe Forest Villages
5. Forest Department officers
6. NGOs and civil society organisations

### 1. SCHEDULED TRIBE SETTLEMENTS:

- » These settlements are in Sonai Rupai WLS and Reserved Forest buffer areas of Nameri NP
- » Settlements are unrecognised as per government records, i.e. considered encroachments
- » This population lives in temporary or semi-permanent house types and is a sizeable part of total forest dwelling population in Sonitpur
- » Majority are of Bodo Scheduled Tribe
- » Since the 1990s, settlers migrated from across Assam and were incited by political leaders to occupy forest land in Sonitpur
- » Settlers were told that since Sonitpur is a proposed tribal belt, this tribal community has a right to land
- » Many families were additionally motivated by the hope of secure livelihoods and sufficient homestead land
- » As per interviews, average land holding amongst settlers ranges from 1.6ha to 2.8ha per family
- » Main livelihood is subsistence and commercial agriculture (paddy, mustard, yam and chilli)
- » Fuel wood and fodder is collected from Reserved Forests and sanctuary area
- » Interviewees did not mention non-utilitarian, religious or cultural ties with the forest, nor history of forest protection
- » Some settlers purchased land inside Sonai Rupai WLS from a leader, ex: 1.6 ha purchased in 2000 for Rs 1600, or in 2003, 2.8ha in Charduar RF was given free to each family but settlers have invested Rs 5000 to clear the forested land and make it cultivable
- » Settlers were aware of the gist of the Forest Rights Act but received information only in Dec 08
- » Formation of gram sabhas and Forest Rights Committee was haphazard but interviewees were confident that their leaders would do the necessary
- » According to interviewees, the greatest benefit of this Act is that if land titles are obtained, the Forest Department would be unable to evict them



Pic 2: Forested area of Sonai Rupai WLS



Pic 3: Forest patches in Sonai Rupai WLS converted to settlements and agriculture

### 2. SCHEDULED TRIBE REVENUE VILLAGES:

- » Revenue villages visited were of Bodo Scheduled Tribe majority
- » While people have titles for their residence in the Revenue Village, many families were cultivating on forest land in Reserved Forests for which they do not have titles
- » Assam State Government had imposed a 28 Feb 2009 deadline to submit all claims under the Act
- » Community members expressed concern about this deadline and the Student Union was successful in pressuring the District Collector to extend this date to 7 April 2009.

- » Community members were also concerned about comments from Forest Dept. officers that only cases where a claimant's house and field is in the same location will be considered under this Act. This is worrisome for many families whose residences and cultivated lands are spatially separated.
- » Student Union asserted that no fresh encroachments were occurring in nearby Reserved Forests
- » However, the Union explained that some individuals were cleaning bushes (but not trees) on land that had been previously reserved by them. For ex, residents of a Revenue Village had reserved a plot of forest land ten years ago for a community college. This plot was being cleaned to prove occupation under the Act.

### 3. NON-TRIBAL FOREST VILLAGES:

- » These Forest Villages were mostly of non-tribal majority
- » Many non-tribal families came from other towns in Sonitpur in the early 1960s due to submergence of their cultivated lands in floods of the Jia Bhoroli river. Forest Villages were declared in 1962,
- » Main source of livelihood is subsistence and commercial agriculture (paddy, mustard)
- » Average land-holding per family reported as 2ha
- » Average annual income from agriculture reported as Rs 10,000
- » Additional income from sale of areca nut and betel leaf planted on house premises (Rs 5000/year)
- » Dependence on forest is limited to collection of fuel wood and fodder
- » Residents were aware of the Act, received information from their Zilla Panchayat (ZP) representative
- » Community members were aware of the Act's requirement of eligibility for non-tribals, i.e. non-tribal claimants to be residing in forests for at least 3 generations or since 1930
- » However, ZP representative had assured non-tribal families that their claims would be approved.
- » According to community members, biggest benefit of the Act is that if land titles are obtained, individuals could apply for loans through which their small businesses can be expanded
- » Community members were concerned about conflict between non-tribals and tribals due to differential requirements under the Act

### 4. SCHEDULED TRIBE FOREST VILLAGES:

- » These are Forest Villages where the Missing Scheduled Tribe is majority indigenous group
- » Historical records of Missing people in these villages date to the early 1900s
- » Average land-holding per family reported to be between 1.3 to 1.6 ha
- » Major source of livelihood is agriculture (paddy, mustard)
- » Dependence on forest is limited to fuel wood and fodder from nearby Reserved Forests
- » Community members explained that they do not currently follow any traditional practices in the forest
- » Area of Forest Village has expanded since its declaration
- » Community members are aware of Act, informed by Integrated Tribal Welfare Dept (ITDP)
- » Village has constituted a Forest Rights Committee (FRC). FRC is requesting claimants to pay Rs 50 as a fee for claims verification process and to meet material costs. Community members did not express concern regarding payment of this fee.
- » According to community members, major benefit of the Act is that land titles will help in availing of loans through which individuals can start small businesses.

## CONTD...STATUS OF FOREST RIGHTS ACT & PEOPLE'S PERCEPTIONS

### 4. CONTD... SCHEDULED TRIBE FOREST VILLAGES:

» A major concern was the differentiation between Scheduled Tribes and non-tribal forest dwellers. Community members expressed that if the law were to have been drafted by them, they would not have differentiated between tribals and non-tribals in the same or adjacent villages. Instead, all forest dwelling communities in the same village should be equally eligible for forest rights.

### 5. FOREST DEPARTMENT OFFICERS:

- » Forest Dept. officers expressed concern about the impact of the Act in Sonitpur given the history of large-scale encroachments
- » According to officers, most forest dwellers are not heavily dependent on forest produce for bona fide livelihoods needs
- » Officers also expressed the need for Forest Dept. personnel (particularly Wildlife Wing) to have an active role in verification of rights procedure due to their knowledge about date and extent of forest occupation
- » Interviewees felt that fresh encroachment spurred by the Act could become a serious concern

### 6. NGOS & CIVIL SOCIETY ACTORS:

- » Civil society persons said that small forest patches have been cleared after forest dwellers received news about distribution of land titles. However, interviewees admitted that it was difficult to determine whether the clearing was solely spurred by the Act or a continuation of a political movement
- » Interviewees felt that a suitable date for regularisation of claims (for STs) was 1980, not 2005
- » Interviewees opined that once the Act was implemented and issue of tenure security was resolved, Forest Dept. and NGOs could initiate concentrated conservation efforts

## REFLECTIONS & CONCERNS

Based on conversations with various stakeholders, we feel that the following are key issues to consider when implementing the Act in forest areas of Sonitpur:

### 1. POSSIBLE EXCLUSION OF NON-TRIBAL FOREST DWELLERS FROM BENEFITS UNDER THE ACT & CONFLICT

» Many non-tribals have been forest dependent and forest dwelling for much longer than more recent tribal settlers. If the Act is implemented, non-tribals many of whom settled in the 1950s will not obtain land and forest rights. This could lead to ethnic conflict

### 2. IMPROPER VERIFICATION OF RIGHTS & LAND DEMARCATION

» Maps submitted with claims forms are haphazard in their description of extent and boundaries of land occupied. This could mean further disputes at the time of issuing of titles.

### 3. ACT IS PERCEIVED AS A "LAND RIGHTS ACT"; POSSIBLE EXCLUSION OF CONSERVATION DUTIES

- » Awareness on the Act is limited to provision regarding individual land titles. Community members are not aware about community rights provisions.
- » As a result, conservation elements of the Act such as right to protect, manage and conserve community forest resource could be overlooked.

### 4. FRESH ENCROACHMENT OF FOREST LAND

- » Team did not observe any instances of new settlers occupying fresh forest land
- » Small expansions of crop lands by clearing bushes on previously felled forest land were observed

### 5. CRITICAL TIGER HABITATS & CRITICAL WILDLIFE HABITATS

- » 200 km<sup>2</sup> of Nameri NP has been declared a Critical Tiger Habitat (2007) under Wild Life (Protection) Amendment Act, 2006
- » 220 km<sup>2</sup> of Sonai Rupai WLS, 1420 km<sup>2</sup> of Sonitpur Elephant Reserve and 18976.520ha of Balipara Reserved Forest have been proposed Critical Wildlife Habitats under this Act.
- » However, this proposal has not yet been sent for review to the Ministry of Environment & Forests.

## CONCLUSIONS & RECOMMENDATIONS

The Forest Rights Act has a diverse range of implications for forest areas of Sonitpur, in particular Sonai Rupai WLS and Nameri NP. While the intention of the Act is to recognize previously existing rights of communities predominantly dependent on the forest, the situation in this region is significantly different from many other parts of India. Apart from cultivation of previously forested land, majority of forest dwellers are not significantly dependent on forests for their bona fide livelihoods needs. Most forest dwellers are resident in forests only as an accidental by-product of a political movement.

The heterogeneity of the socioeconomic landscape and ecological importance of Sonai Rupai and Nameri augment the concerns vis-à-vis the Act as well as open up possibilities for engaging local communities in conservation.

We propose the following **overall** and **site-specific** recommendations as potential resolution measures:

### 1. AMENDMENT OF SECTION 3(1)(a) OF THE FOREST RIGHTS ACT, 2006

- » A high occupation of forestland in Sonai Rupai WLS and buffer Reserved Forests of Nameri NP occurred between the late 1990s and early 2000s resulting from a political movement. Given the impact of regularisation of such a large extent of land, we feel Section 3(1)(a) of the Act which specifies that Scheduled Tribes must be in occupation of land before December 2005, be amended to 1980 in consonance with the Forest Conservation Act.
- » For those settled after 1980, it is advisable to provide in situ afforestation or ecological restoration based livelihoods or option to move to revenue land elsewhere. The relocation option should be exercised for such encroachers inside protected areas or other critical wildlife habitats that are identified through a transparent participatory process.
- » For those settled after 2001, adequate rehabilitation should be provided.

### 2. EXPEDITIOUS VESTING OF RIGHTS & FOCUS ON COMMUNITY FOREST RESOURCE

- » It is imperative that those forest rights which have been approved are expeditiously processed through the Sub-Divisional and District Level Committees. Additionally, ITDP must initiate awareness programmes to encourage claims on community forest resource, where applicable.

## CONTD... CONCLUSIONS & RECOMMENDATIONS

### 3 SONAI RUPAI WLS & NAMERI NP TO BE GIVEN HIGH DEGREE OF PROTECTION

» Since Nameri NP and Sonai Rupai WLS are of great ecological importance and currently fragile ecosystems, they should be declared Critical Wildlife Habitats with due democratic process.

» After evaluation, any human activity negatively impacting the pygmy hog or its habitat in Sonai Rupai should be reviewed, modified or restricted as deemed necessary. This includes both local resource extraction as well as large-scale diversion of forests for infrastructure projects. We emphasize that this should follow due process as specified in the Act, including scientific and participatory assessments and prior informed consent.

» Finally, the possibilities for co-management of Sonai Rupai and Nameri should be reviewed



Deka et al. 2009

Pic 4: Pygmy hog after its release in Sonai Rupai WLS, 2009

### 4. CRUCIAL WILDLIFE CORRIDORS TO BE DECLARED CRITICAL WILDLIFE HABITAT

» Segments of Charduar and Balipara RFs that form corridors between Sonai Rupai and Nameri and are frequently used by elephants should be declared Critical Wildlife Habitat. Any human disturbance that negatively impacts this habitat should be reviewed through participatory means while fully exploring possibilities of co-management.

See 'Future of Conservation Network's' Guidelines on identification and declaration of Critical Wildlife Habitats - [http://www.atree.org/cth\\_cwh.html](http://www.atree.org/cth_cwh.html)

### 5. STEPS TO PREVENT FRESH ENCROACHMENTS

» To prevent fresh encroachments, clear and urgent messages are required from ITDP, Revenue and Forest Departments that land occupation after 2005 will not be considered under the Act.

» Satellite imagery should be used to verify if area of land claimed was occupied before or after 2005

### 6. FOREST LAND CLEARED AFTER 2005 TO BE REGAINED BY FOREST DEPARTMENT FOR REGENERATION OF FORESTS

» Any forest land cleared and occupied on a date subsequent to the Act's cut-off date should be regained by the Forest Department for full efforts for regeneration. All necessary steps must be taken to ensure this land is not further diverted for non-forest purposes.

### 7. CONCRETE STEPS TO INVOLVE COMMUNITIES IN CONSERVATION ACTIVITIES

» Innovative forest management techniques that garner community support should be employed to regenerate degraded forest areas. This could include

- a). Exchange visits to Community Conserved Areas to learn about community conservation efforts

- b). Constitution of committees for conservation under Section 5 of the Forest Rights Act
- c). Involvement of communities in Wildlife Sanctuary Advisory Committees leading up to co-management bodies

**Kalpavriksh believes that this Act is long overdue to recognize the forests rights of genuinely forest dependent communities across the country.**

**However, in the case of this area specifically, given the history of deforestation and the complex ground situation, we urge the Assam State Government to pass an order that admits only claims of pre-1980 occupiers, and for post-1980 occupiers, moves towards in situ afforestation-based livelihoods or rehabilitation, whichever is preferred by the occupiers.**

**Overall, we feel that these modifications are essential conservation safeguards that need to be integrated before the Act is implemented in Sonitpur District.**

**Finally, in order to pre-empt other such situations, the amendment of the cut-off date of 1980 should be urgently pursued.**

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### Acknowledgements

This project was supported by the Rights & Resources Group. We are grateful to Gada Mili, DASK, Nandita Hazarika and Parag Deka for their time and support to this study. Finally, we are grateful to the interviewees for sharing with us their honest opinions on a sensitive subject.

Kalpavriksh investigation team: Arshiya Urveeja Bose  
For a copy of the full report, contact [arshiyabose@gmail.com](mailto:arshiyabose@gmail.com)