

*Tracking The Forest Rights Act*  
**in Nameri National Park & Sonai Rupai**  
**Wildlife Sanctuary**

*An Investigative Report*

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The implications of the Forest Rights Act 2006 for Protected Areas and Reserved Forests in Assam are a largely unexplored area. While this Act has been written keeping in mind bona fide livelihood needs of millions of traditionally forest-dwelling communities, a number of questions could be raised about its applicability in Assam, particularly in Sonitpur District. This reports seeks to highlight the emerging issues and offer some possible ways of dealing with them.

**I. AIMS & OBJECTIVES**

Kalpavriksh conducted an investigation to understand various issues related to the implementation of the Act in forest areas of Sonitpur. The overall aim of our investigation was to explore examples of positive elements of the Act, which could be used to inspire other such initiatives, as well as key issues of concern, which may need amendment in the Act, Rules or modifications in the State Government's implementation strategy. Our objective was to understand any possible impacts or outcomes of the Act for Nameri National Park (and its buffer areas) and Sonai Rupai Wildlife Sanctuary as well as forest-dwelling communities. Based on the findings from our study, we believe it would be essential to raise alerts regarding areas of concern and also help in taking positive provisions forward.

**II. METHODOLOGY**

Our methodology included open-ended household-level interviews and focus group discussions in ten villages and unrecognized settlements i.e. those officially considered encroachments<sup>1</sup> on forest land. These settlements included four dominant community types:

1. Scheduled Tribe 'settlements'
2. Scheduled Tribe Revenue Villages
3. Non-tribal Forest Villages
4. Scheduled Tribe Forest Villages

Care was taken to ensure that at least one interview was carried out in each of the villages with differing legal categories, such as Revenue Village, Forest Village and encroached settlements. Detailed discussions were also carried out with Forest Department officers, NGOs<sup>2</sup> working in the area as well as various individuals in the 'know' about the local situation.

Our study has numerous limitations. Firstly, due to time constraints, we were unable to dialogue with communities resident in the eastern buffer area of Nameri National Park. Hence, a significant population in Nowduar, Bishwanath and Behali Reserved Forests has been excluded. This includes adivasi, Nepali and Garo communities. Secondly, the villages and 'settlements' for our study were selected on the basis of

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<sup>1</sup> Hereafter, encroachments will be referred to as 'settlements'

<sup>2</sup> The NGOs included WWF-North Bank Landscape Program, SERDO, EcoSystems-India and DASK.

access and convenience. In this respect, they do not constitute strictly ‘random sampling’. As a result, we cannot say for certain that our study fully represents the local situation, especially with regards to the extent of forestland occupied per household. Finally, given the large population living in and around Sonai Rupai and Nameri, ten villages is a significantly small sample size. A more comprehensive study should include a larger and spatially appropriate sample with adequate representation from both Sonai Rupai and Nameri buffer areas.

However, while our investigation is statistically incomplete, we believe that it presents substantial analysis based on which civil society or the State Government can take action.

### **III. FOCUS OF INVESTIGATION**

The investigation focussed on understanding the following issues:

2. How applicable is the main intent of the Act (i.e. recognizing the historical injustice to forest-dwelling communities and the forest rights of traditionally and currently forest-dependent communities) for Sonitpur?
3. What is the current composition of claimants under the Act? Are they,
  - i. Eligible as defined in the Act including,
    - a. Scheduled Tribes who are dependent on the forest for their bona fide livelihoods needs
    - b. ‘Other Traditional Forest Dwellers’ who are dependent on the forest for their bona fide livelihoods needs
  - ii. Not eligible for rights under this Act including,
    - d. Non-tribals residing in forests after 1930
    - e. Scheduled Tribes residing in forests after 2005
    - f. those who are not dependent on the forest for bona fide livelihood needs
4. Are those who are not eligible for rights under this Act actually filing claims?
5. Are eligible claimants traditionally forest-dependent but not currently forest-dependent?
6. Is the District Level Committee strong and unbiased enough to accurately verify claims, accept eligible claims and reject those that are ineligible?
7. What rights are people claiming under the Act?
  - i. How much land are people filing claims for?
  - ii. How much of this land was occupied after 2005?
  - iii. Has post-2005 land occupation has been spurred by the knowledge of the Act and the hope of regularisation? And if so, how much?
  - iv. How many individuals own land elsewhere in the state?
  - v. Are claimants filing for individual resource rights?
  - vi. Are people filing for community rights?
8. Do claimants have a history of forest protection?
9. Can this Act be a way to resolve the age-old lands rights issues in Sonitpur?
10. Given that land rights over a large part of forestland could potentially be accessed for resource use, what would be its impact on Nameri NP, Sonai Rupai WLS and important wildlife corridors as well as human-elephant conflict in the area?

#### IV. STUDY AREA

The area in which we conducted our investigation consists of Sonai Rupai Wildlife Sanctuary (declared in 1998 with 220 km<sup>2</sup> sq.km), Nameri National Park (declared in 1998 with 200 km<sup>2</sup>) and the Reserved Forests of Charduar (declared with 46,107.24 ha), Balipara (18,974 ha) and Sengelimari (340ha). The eastern buffer Reserved Forests of Nameri National Park (Nowduar RF, Bishwanath RF and Behali RF) have been excluded from this study.

These forests are primarily sub-tropical evergreen, tropical semi-evergreen, tropical moist deciduous, riverine forest and grasslands<sup>3</sup>. Elephant, tiger, leopard, clouded leopard, red panda, musk deer, sambar, hog deer, Himalayan black bear, wild dog, fishing cat, jungle cat, slow loris, Indian bison, fox, jackal, Malayan giant squirrel, civet cat, hare, rhesus macaque, capped langur, 250 species of butterflies and 300 species of birds (including the Spot-billed Ibis and White-winged wood duck) have been reported from this area<sup>4</sup>. Additionally, Sonai Rupai Wildlife Sanctuary is the primary re-introduction site of the critically endangered pygmy hog (*Porcula salvania*). The Pygmy Hog Conservation Programme instituted by Durrell Wildlife and EcoSystems-India and undertaken in collaboration with the Assam Forest Department has been successful in releasing 25 pygmy hogs into the grassland area of Sonai Rupai making them the only successfully reintroduced wild population of any hog species in the world<sup>5</sup>.

#### V. STATUS OF FOREST COVER

Forest areas in India have been experiencing rapid, wide ranging changes in forest cover and quality. In Sonitpur District, a number of satellite remote sensing and geographical information system (GIS) studies highlight large-scale deforestation<sup>6</sup>.

Kushwaha and Hazarika (2004) found that 29% (354.08km<sup>2</sup>) of the forest cover in Sonitpur was lost between 1990 and 2001<sup>7</sup>. Maximum loss occurred in the case of moist deciduous forests (229.64km<sup>2</sup>) and the decline was most pronounced between 1999 and 2001 (143.40km<sup>2</sup>)<sup>8</sup>. The three most affected Reserved Forests in the district are Nowduar RF (90% loss) followed by Bishwanath RF (70%), Charduar RF (60%), Balipara RF (40%), Sonai Rupai WLS (30%) and Behali RF (10%) in that order<sup>9</sup>.

The average annual rate of deforestation in the district was calculated to be 10.7% from 1994 to 1999 and 20.1% from 1999 to 2001. The overall rate of decline in forest cover between 1994 and 2001 is estimated to be 28.65%. The Indian Institute of Remote Sensing has estimated that this could be the highest rate of deforestation anywhere in the country<sup>10</sup>. Nearly all of the deforested area in the entire Sonitpur District has been converted to cultivable land.

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<sup>3</sup> Champion and Seth 1968

<sup>4</sup> Kushwaha and Hazarika 2004

<sup>5</sup> Deka et al. (2009)

<sup>6</sup> Srivastava et al. 2002

<sup>7</sup> Kushwaha and Hazarika 2004

<sup>8</sup> Srivastava et al. 2002

<sup>9</sup> Kushwaha and Hazarika 2004

<sup>10</sup> Srivastava et al. 2002

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

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

Source: Saikia et al. (date unknown)

### Forest loss in important wildlife areas

In Sonai Rupai WLS, a 35% decline in forest cover was recorded between 2001 and 2005. In 2006 only 58% (128 km<sup>2</sup>) of the sanctuary area was under forest cover. Landsat imagery indicates that much of the forest cover in the central and western parts of the Sanctuary was cleared and replaced by human ‘settlements’ and agriculture between 1990 and 2002<sup>11</sup>. As of 2009, according to the Forest Department, 62% (135 km<sup>2</sup>) is under the control of the Forest Department.

In Charduar Reserved Forest, once the second largest Reserved Forest in Asia, forest loss due to encroachment has been substantial. Dense forest cover in Balipara Reserved Forest, which constitutes the buffer area of Nameri NP also declined significantly<sup>12</sup>. Additionally, it was found that forest areas in the immediate vicinity of human habitations have suffered most compared to those located away and that high deforestation has resulted in more incidences of human-elephant conflicts<sup>13</sup>.

### Pictorial Representation of Land cover patter in Sonai Rupai WLS

Information reproduced from Technical Report by WWF India, North Bank Landscape Program (2006)

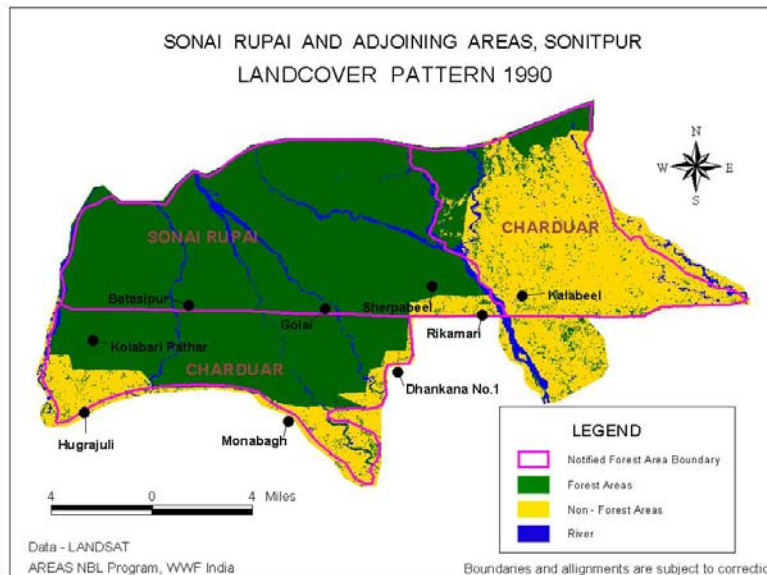


Fig 1: Landcover Pattern in Sonai Rupai WLS in 1990

<sup>11</sup> Areas NBL Program, WWF India 2006

<sup>12</sup> Saikia et al.

<sup>13</sup> Kushwaha and Hazarika 2004

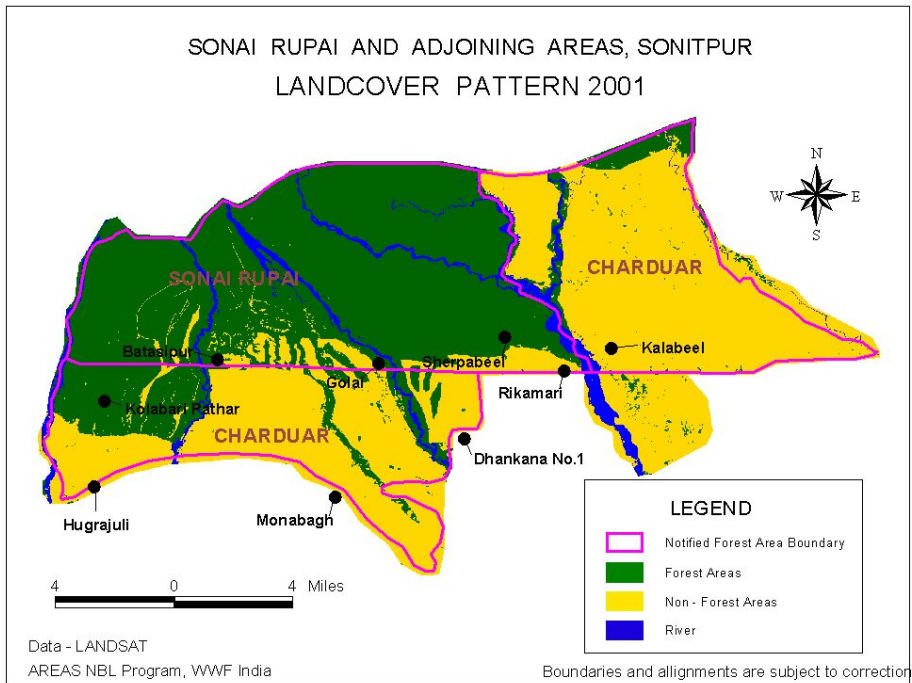


Fig 2: Landcover Pattern in Sonai Rupai WLS in 2001

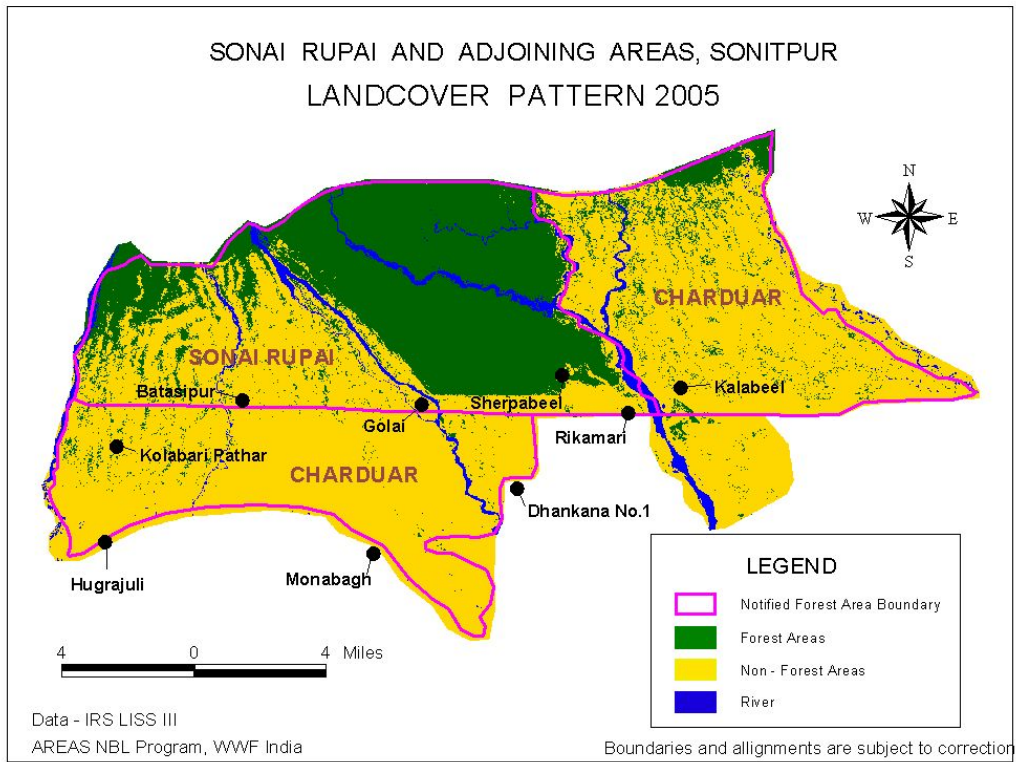


Fig 3: Landcover Pattern in Sonai Rupai WLS in 2005

<b>Table 2: Landcover composition and changes in Sonai Rupai WLS</b>					
Landcover Composition	1990(%)	2001(%)	2005(%)	% Change (1990-2001)	% Change (2001-2005)
Forest	97	93	58	-4	<b>- 35</b>
Non-Forest	3	7	42	4	<b>35</b>

## VI. IMPORTANT FINDINGS

During the course of our study, we held interviews to assess the perceptions of six different stakeholders 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 organizations

### 1. Scheduled Tribe encroached settlements

Settlements visited – Sonai Rupai WLS: Amlaiguri, Jiabari Sonasiri;  
Nameri NP buffer area: No. 2. Maidangshree (Charduar RF), Duangbari (Sengelimari RF)

According to the Census of India 2001, 52.7% of the 1,681,513 population of Sonitpur District lives in temporary houses. A further 23.9% lives in semi-permanent houses<sup>14</sup>. While exact figure are not available, interviewees reported that a sizeable part of those who live in temporary and semi-permanent houses do so in settlements on Reserved Forest land, the majority of whom are of the Bodo Scheduled Tribe. These settlements on forestland are not recognized in legal records and settlers are considered as encroachers.

From 1990 onwards, a political movement with the aim of establishing a Bodo majority brought a huge influx of people into Sonitpur District. Settlers arrived from areas such as Dimapur, Kokrajhar, Barpeta, Karbi Anglong, Lakhimpur, Golaghat and various towns within Sonitpur, such as Rangapara and neighbouring Udalguri District. While political motivation was the major driver, a number of families were additionally motivated by the hope of more secure livelihoods compared to their existing insufficient homestead land or inadequate income from occupations such as rickshaw driving, poultry, agriculture etc. A lack of available revenue land in Sonitpur meant that settlers had to clear and occupy land in Reserved Forests in the buffer areas of Nameri NP and inside Sonai Rupai Wildlife Sanctuary. As per our information, the land holding amongst encroachers ranges from 1.6ha to 2.8ha with the average being roughly 2ha<sup>15</sup>. However, many families reportedly also own land elsewhere in the state. This was unconfirmed in our investigation.

Amongst encroachers in Sonitpur, agriculture is a major land-use with paddy, mustard, chillies and yam being important crops grown for both subsistence as well as commercial use. Other than fire wood collection, dependence on minor forest produce

<sup>14</sup> Census of India 2001

<sup>15</sup> It is important to recognize that this average is derived from figures mentioned by interviewees themselves and could be an inaccurate estimation. However, at present, no official data on individual land-holdings was available.

seems to be minimum. In all cases, people did not explicitly mention non-utilitarian, religious or cultural ties with the forest. They also did not mention any history of forest protection.

From our conversations, we learned that the process through which Bodo settlers arrived into Sonitpur is fairly similar across settlements. Many individuals mentioned a “leader”<sup>16</sup> who arranged for land. For example, many residents of Jiabari (in Sonai Rupai WLS) purchased 1.6ha each of forestland in 2000 for Rs. 1600 from their leader. However, they claim that they did not know beforehand that their land was a Reserved Forest or Wildlife Sanctuary and therefore had to invest considerably to clear tree cover. In No. 2 Maidangshree in Charduar RF, most residents arrived between 2003 and 2004 when a leader incited them to occupy forestland. They were told that Sonitpur was a proposed part of the tribal belt and as a result, Bodo people had a right to land. Another interviewee’s individual plot was 2.8ha. While the interviewee did not have to purchase his 2.8ha plot, he had to invest over Rs. 5,000 to hire labour to clear it and make it cultivable. Moreover, in Sonai Rupai WLS, many settlers credit their leaders for preventing evictions of settlements from the sanctuary and safeguarding their interests.

In a majority of the encroached settlements, community members were aware about the Forest Rights Act. Although, the information only reached them in the second week of December 2008, many villages have met twice or thrice to discuss the claims process. In Amlaiguri (Sonai Rupai) people did not know the details about the law but were confident that their leaders would do the needful. In Jiabari (Sonai Rupai WLS) and No. 2 Maidangshree (Charduar RF), Forest Rights Committees (FRCs) had been constituted (it was unclear whether these were at a settlement or cluster level). Claimants were in the process of organizing their records and getting voter ID cards to substitute for the absence of land papers and Forest Department records.

In Sonai Rupai, many community members felt that the greatest benefit of this Act is that if permanent pattas were obtained, the Forest Department would not be able to evict them from their lands.



Picture 1: Forested areas of Sonai Rupai WLS

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<sup>16</sup> It was unclear as to who was being referred to as a ‘leader’. We conjecture that leaders could be politicians but we are unsure as to what level (ZP, MLA, MP etc) or which parties.





Picture 2: Forest patches inside Sonai Rupai WLS that have been cleared for settlements and cultivable land

## 2. Scheduled Tribe Revenue Villages

Discussions with office-bearing members of the All Bodo Student's Union (ABSU). Representatives from Revenue Villages in Charduar, Balipara and Sengelimari RFs [Nameri NP buffer area] were present.

Community members in Bodo-dominated Revenue Villages learned about the Act from the District Collector who sent the All Bodo Student's Union (ABSU) a brochure. The Assam State Government had imposed a February 28<sup>th</sup> deadline to submit all claims. However, as of January 23<sup>rd</sup>, people had not received claims forms. As of March 2009, ABSU had been successful in pressuring the District Collector to extend the deadline to April 7<sup>th</sup>, a date that is more feasible. ABSU members were extremely concerned about a comment from a Forest Department officer that only cases where a claimant's house and field is in the same location will be considered for rights. This is a worry since in many cases, residence and cultivated lands are spatially separated to some extent. ABSU has expressed a need for help with demarcation of land and surveys and has even requested the Forest Department's help in this regard.

ABSU was of the opinion that no fresh clearing of forests was taking place in surrounding Reserved Forests. The Sengelimari FRC had reiterated during a gram sabha meeting that only land that is already under occupation will be considered under the Act. When asked about the recent incidences of bush clearing that had been observed in Sengelimari RF, ABSU members explained that some individuals are clearing land that was previously "reserved" by them. For example, residents of Sengelimari Revenue Village had reserved a plot of forestland for a Bodo Community College eight or ten years ago. Similarly, residents of Charduar, Balipara and Sengelimari RFs would also have reserved plots which they are now clearing to prove occupation under the Act. However, we did not observe any fresh tree-felling as a result of the Act.



Picture 3: Forested areas converted to agriculture in Sengelimari RF, the buffer of Nameri NP

### **3. Non-tribal Forest Villages**

Villages visited: Tarajan Forest Village (Charduar RF) [Nameri NP buffer area]

The majority of the 63 families in Tarajan Forest Village are non-Scheduled Tribes from Assam. As per our information, the first settlers in Tarajan came from Balipara in 1961 as their earlier land-holdings were submerged in the Jia Bhoroli river floods. Tarajan was subsequently recognized as a Forest Village in 1962. The main source of livelihood is agriculture with the average land holding of 2ha (paddy, mustard with an income of Rs. 10,000/year). Supari (Areca nut) and Betal leaf cultivation within the house premises are also a source of income (Rs. 5,000/year). Dependence on the forest is limited to collection of fuelwood and fodder.

Residents of Tarajan came to learn about the Act from their zilla panchayat (ZP) representative who distributed a booklet in Assamese. Community members were adequately aware about the provisions of the Act including the requirement of 75 years for non-tribal claimants as well as the provision for recognizing community forest protection. However, individuals were not aware about the Act's provision for the conversion of forest villages to revenue villages. The gram sabha in Tarajan had met thrice. The first meeting was to form the Forest Rights Committee and the second and third meetings were to discuss whether the community should or should not file claims. There was some concern about the Act being a larger political game. The ZP member also informed about a February 28<sup>th</sup> deadline to submit all claims to the Sub-Divisional Level Committee.

When asked about what possible benefits the Act could have, community members responded that currently because they do not have land pattas, they cannot apply for big loans and have to depend on middle-men. Permanent land papers would help them avail of big loans through which they can expand their businesses (shops etc.)

With regards to the 75 years of residence, the ZP member advised that all non-tribal residents of Tarajan should go ahead and submit their land and forest rights claims even though they have not been resident for 75 years. He has assured them that he would get their claims approved somehow.

Community members felt that a fair degree of conflict between non-tribal and tribal communities could emerge after the allotment of rights under the Act. Citing one such incident, an interviewee mentioned that members from the adjacent tribal-dominated village had constructed a gate outside a popular tourist lodge, EcoCamp and were demanding fees from visitors to EcoCamp. When residents from Tarajan inquired why visitor fees was being arbitrarily collected, they were told that since the promulgation of this Act, Nameri was now a tribal land and tribals could do what they wished. Moreover, Tarajan villagers should leave since they would not even get permanent pattas. According to tribals, the FRA is proof that Sonitpur is a tribal land.

#### **4. Scheduled Tribe Forest Villages**

Villages visited: Dharikatti Forest Village (Charduar RF) [Nameri NP buffer area]

Dharikatti Forest Village was established in 1965, although historical records indicate that Missing people have resided in the area since the early 1900s. The majority of the 102 families in Dharikatti are of the Missing Scheduled Tribe. The average land-holding in the area is between 1.3-1.6ha and major crops are paddy and mustard. Fuel wood is extracted from nearby RFs. Community members claim that they do not currently maintain any cultural ties or have any traditional practices involving the forest. According to them, with the exception of firewood and fodder, members in their village are not dependent on the forest for their bona fide livelihoods needs. Currently, many community members hold jobs in Charduar, Balipara and Tezpur. According to records as well as community members themselves, significant expansion of cultivated lands has occurred since the Forest Village declaration. In fact, residents claim that Dharikatti has expanded to almost double its original area.

People in Dharikatti were informed about the Act by a member of the Integrated Tribal Development Programme (ITDP). Since then, they have constituted a Forest Rights Committee and arranged for an office in the village. The FRC is urging all claimants to pay a fee of Rs. 50 for the verification process and any material that the FRC may need to purchase. At present, people are not concerned that this fee may be misused.

When asked about the possible benefits of the Act, many individuals commented that permanent land titles would help people avail of loans with which they can start businesses. Individuals were also aware about the proposed conversion from 'forest' to 'revenue' village.

There is some concern about encroachment of forestland by the other communities in areas close to Dharikatti. People expressed worry that the Reserved Forests in their village may soon be cleared for further settlements.

Additionally, people expressed regret about the differentiation in the Act between Scheduled Tribes and non-tribals. They felt that if the law were to have been drafted by them, they would not differentiate (i.e. pre-2005 for STs and 75 years for non-tribals) between communities within and in adjacent villages. Instead, all forest-dwelling people in the same village should be equally eligible for rights.

## **5. Forest Department Officers**

Discussions with officers from both Territorial and Wildlife Divisions

Discussions with Forest Department officers revealed their concerns about a number of aspects of this Act, particularly in the context of implementing the law in Sonitpur. For example, officers shared their understanding of the history of some forest-dwelling communities and their experience of forest management. According to officers, while certain provisions of the Act that benefit genuinely forest-dependent communities are welcome, the on-ground situation in Sonitpur is such that the majority of communities (both tribal and non-tribal) are currently not heavily dependent on forest produce. Given that encroachments of forests in this region have been systematic and politically organized, many communities have been instructed by their leaders to not allow any forests to regenerate in forest patches in people's surrounds. As a result, tree-felling and clearing of bushes (even of those trees that do not have any commercial or utility value) is frequent.

Forest Department officers were also concerned about the verification of claims procedure as specified by the Act. Specifically, many officers feel that verification of claims by the gram sabha elected Forest Rights Committee may be biased given the obvious conflict of interest. Additionally, official forms given to members of the District Level Committee (DLC) only provide a small column in which the District Forest Officer can either accept or dissent the claim. Instead, officers felt that the Forest Department should have been given a more central role in the verification of claims procedure since the forest officers have the most comprehensive knowledge about extent of forestland occupied by various communities. To this regard, a senior forest officer had written to the District Collector recommending that forest officers be present with the Forest Rights Committee during the verification process. At present, officers feel that they will have to rely heavily on satellite imagery as the only objective evidence of date of occupation of forestland.

Officers also raised an additional number of questions and concerns vis-à-vis the Act that they felt needed urgent attention. Some such concerns are as follows:

- How will the DLC verify whether the individual in whose name the land title is issued is also the actual occupant of the forestland?
- Officers were certain that the Act would spur fresh encroachments. Controlling such encroachments would be an additional task for the Forest Department, especially since in some places (such as in Sonai Rupai WLS) consolidating forest patches and seizing encroached land has been an arduous process. Removing existing encroachments has been difficult as it is.
- Given that the popular perception is that this law is meant for distribution of land to tribals, many non-tribals may be denied titles. How will ethnic conflict be prevented between tribals and non-tribals?
- Can a mechanism be developed to determine whether an individual claimant is also in ownership of land elsewhere in the state?
- Given the history of occupation of forestland in Sonitpur, a more appropriate date to regularise encroachments is 1980. Unfortunately, the Forest Department has not been given the autonomy to design state-specific implementation strategies.

## **6. NGOs & Civil Society Actors**

According to interviewees, small patches of forest have been burnt after people received news of the imminent distribution of pattas. However, interviewees also admitted that it was difficult to unequivocally determine whether the clearing was solely because of the Act or whether a continuation of the longstanding political movement.

Many interviewees were of the opinion that an amendment to that the Act, which changes the date of regularisation of land occupation from 2005 to 1980 would be suitable given the local context. They felt that once the Act was implemented, it could open up possibilities for concentrated conservation efforts. The hope was that once regularisation of encroachments was completed and people's rights were settled, the Forest Department and NGOs could focus on protecting the remaining Reserved Forests and regenerating degraded areas. Interviewees felt that preparations should be made on how to manage the environment once all titles have been distributed. In this milieu, conservation efforts should include building the community's stake in conservation, perhaps by creating markets for minor forest produce.

## **VII. REFLECTIONS, CONCERNS AND RECOMMENDATIONS**

Based on conversations with various community stakeholders, Forest Department officers and civil society groups working in the area, we feel that the following are key issues to keep in mind when implementing the Act in the region.

### **1. Possible exclusion of non-tribal forest-dwellers from benefits under the Act**

As per the Act, non-tribal communities have to be resident in forest areas for a period of at least 75 years in order to be able claim rights. However, even some of the earliest residents of forest areas in Sonitpur date back only to the early 1950s. Currently, many non-tribal communities from Assam are as dependent on or independent on forest produce for their bona fide livelihoods needs as Scheduled Tribes. Additionally, they have been forest-dependent and forest-dwelling for much longer than some of the more recent tribal settlers. Yet, if the law is to be strictly followed, they will be deprived of forest and land rights. Many feel that this differentiation could cause ethnic conflict, the beginnings of which are already visible, as described earlier in this report.

**Our recommendations:** In this specific context, to avoid conflict, we emphasize the provision of this Act that mandates the conversion of Forest Villages to Revenue Villages. Through such a process, a significant population of non-tribal forest-dwellers will be entitled to rights and benefits accorded to a Revenue Village.

### **2. Improper verification of rights and land demarcation**

The Government of Assam had announced a deadline of February 28, 2009 for all claimants to submit their application forms for forest rights under this Act. However, given that forest-dwelling communities learned about the existence of the Act only in the first week of December 2008 and held their first gram sabha meeting in early January, people were extremely unfamiliar about the claims process. Finally, the majority of claims were submitted during the first week of April. One major point of confusion has been the verification of claims by the FRC, particularly regarding surveying the land to determine the extent and description of boundaries on land occupied by people. At present, maps submitted along with claims forms are extremely haphazard. Land plots overlap across different owners and Reserved Forests. Haphazard demarcation of land could mean further disputes at the time of issuing of titles.

**Our recommendations:** In this context, it would be advisable for the Sub-Divisional Committee (which includes members from Forest Department [especially Wildlife Wing] and ITDP) along with Revenue Department staff and independent NGOs to help gram sabhas sort out possible conflicts before claims are sent to the District Committee.

### **3. Act is perceived as a “land rights Act”; possible exclusion of conservation duties**

At present, bulk of the discussions amongst claimants is regarding the individual land rights provision of the Act. The law is informally referred to as “Maati patta aain” which means “Law for land pattas”. Perhaps, because the major dispute has been about occupation of forest land and also because dependence on minor forest produce is limited to firewood, other provisions of the Act are being entirely sidelined.

As a result, the other empowerment and conservation elements of this Act, such as the right to community forest resource, right to protect and manage forests and the gram sabha's role in biodiversity, water and forest conservation, have been totally overlooked.

**Our recommendations:** It is imperative that while the rights of forest-dwelling communities are recognized, a system of conservation duties and powers of rights-holders also be put into place. It would be essential for rights-holders to monitor their impact on forest areas, ensure that their use of the forest is sustainable and help in conserving wildlife. It is undoubtedly true that conserving wildlife could be a major challenge in the case of recent settlers unfamiliar with the local ecosystems and having no traditions of conservation in this area. However, we feel that this is a major opportunity to build the capacity and willingness for conservation. In this regard, it is essential that the ITDP, Sub-divisional and District-level Committees constituted in Sonitpur provide comprehensive and accurate information to people about all provisions of the Act, especially related to community rights to management of forest and conservation duties of rights-holders. We encourage the ITDP, Forest Department, NGOs and independent experts to collaborate with rights-holders to develop a monitoring system through which rights-holders can continuously assess and appropriately regulate their use of the forest. Finally, we feel that a scientific evaluation of the impact of firewood collection on the ecosystem of Nameri NP and Sonai Rupai WLS should be conducted to determine whether alternative forms of fuel need to be provided.

#### **4. Fresh encroachment of forestland**

We did not observe any case of new settlers occupying fresh forestland. However, small expansions of existing agricultural fields could become an issue. For example, signs of fresh clearing of bushes (on land that had already been tree-felled some years ago) were clearly visible in Sengelimari RF (Nameri buffer area). Many residents of Sengelimari admitted that it was because they needed to show their occupation on the given piece of land to claim rights. There are also unconfirmed reports of bush-clearing in Bishwanath and Behali RFs.

While, we did not acquire any clear evidence of fresh tree-felling spurred by the Act, forest officials feel that this is occurring and is a cause of concern.

**Our recommendations:** We feel that it is absolutely necessary for the ITDP, Revenue Department and Forest Department to issue a clear statement stating that land occupation after December 13, 2005 will not be considered under any circumstances. It would also be essential for District Level Committee to seek more evidence regarding a claim if they feel that land has been acquired post-2005, such as satellite imagery. However, any further verification of claims must be within an efficient timeframe so as not to delay decisions.

#### **5. Impact of regularisation of occupation of forestland on Sonai Rupai and Nameri, intensity of human-elephant conflict**

This report summarises the comprehensive analyses that have been carried out on the change in forest cover and refers to studies which elaborate on the extent of human-elephant conflict in Sonitpur. The reality is that many of the Reserved Forests

surrounding Sonai Rupai and Nameri exist only on paper. Given this context, the recognition of rights (in particular, land rights) may not impact some actual forests in RFs (Balipara, Sengelimari) significantly, since they anyway don't exist. However, segments of Balipara and Charduar RF that connect Sonai Rupai and Nameri form a crucial elephant corridor. Intensity of human-elephant conflict in the 'settlements' that fall in this corridor is also very high. If in the process of regularisation of encroachments, further forestland is inadvertently diverted, conflict is sure to increase. In this case, significant interventions (compensation, incentives, cropping patterns, mitigation measures) will be required to ensure that incidences of elephant deaths due to retaliation are not at a level that threatens the local survival of the species.

**Our recommendations:** Although it is too early to evaluate the impact of this Act on intensity of human-elephant conflict, the issue still demands mitigation and preventive measures. As per our understanding, a number of expert NGOs and the Forest Department are already working on this issue. Where they are not doing so, it would be advisable to involve local communities.

#### **6. Critical Tiger Habitats and Critical Wildlife Habitats**

As a tiger reserve, 200 sq.km area of Nameri has been declared a Critical Tiger Habitat (CTH) in 2007 (under WLPA). As per this declaration, any human use that causes irreversible damage to the tiger and tiger habitat will not be permitted.

Additionally, 220 sq.km of Sonai Rupai WLS, 1420 sq.km of Sonitpur Elephant Reserve and 18976.520ha of Balipara Reserved Forest have been proposed as Critical Wildlife Habitats under the Forest Rights Act. However, this proposal has not yet been sent for review to the Ministry of Environment & Forests.

**Our recommendations:** The CTH provision should be used as an opportunity to scientifically assess human impacts on Nameri (including extraction of firewood and boulders and fishing). Additionally, the Critical Wildlife Habitat (CWH) provision of the Forest Rights Act (Sec. 2, 4) could be used to evaluate the human impacts on Sonai Rupai WLS. More specifically, a scientific assessment of human impacts on the pygmy hog and its habitat in Sonai Rupai would be essential to determine what kinds of human uses of Sonai Rupai impact or do not impact the hog. This step is essential to provide the pygmy hog the highest degree of protection. Additionally, the Ministry of Environment & Forests' has issued guidelines to identify and declare CWH which provide the opportunity to secure important wildlife corridors even if they are outside National Parks and Sanctuaries. In this respect, we recommend that segments of Balipara RF and Charduar RF that connect Sonai Rupai WLS and Nameri NP are declared CWH. We note that both the Wild Life (Protection) Act 1972 and the Forest Rights Act require a democratic process to declare CWH and Critical Tiger Habitat and we strongly recommend the use of guidelines developed by the 'Future of Conservation Network' in 2007-2008<sup>17</sup>.

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<sup>17</sup> For more information, please see [http://www.atree.org/cth\\_cwh.html](http://www.atree.org/cth_cwh.html)



## VIII. CONCLUSIONS & OVERALL RECOMMENDATIONS

The Forest Rights Act undoubtedly has a diverse range of implications for forest areas of Sonitpur. While, the intention of the Act is to recognize the previously existing rights of forest-dependent communities (in many cases, where tribal communities are predominantly dependent on the forest for their livelihoods), the situation in this part of Assam is significantly different. Apart from agriculture on previously forest land, the forest-dependent communities in Sonitpur are not currently significantly dependent on forests for their bona fide livelihoods needs. The majority of forest-dwelling communities in Sonitpur are resident in forests only as an accidental by-product of a political movement. Furthermore, the heterogeneity of the socioeconomic landscape and the ecological importance of Sonai Rupai WLS and Nameri NP augment the concerns vis-à-vis the Act as well as open up possibilities for engaging the local communities in conservation.

As an outcome of our investigation in Sonai Rupai WLS, Nameri NP and their surrounds, Kalpavriksh proposes the following **overall** and **site-specific** recommendations:

- **Amendment of Section 3(1)a of the Act**

Given the high occupation of forestland between the late 1990s and early 2000s, resulting from a political movement in Sonai Rupai WLS and buffer RFs of Nameri NP and the impacts of regularisation of these large number of encroachments, Kalpavriksh feels that Section 3(1)a which specifies that Scheduled Tribes must be in occupation of land before December 13, 2005 is too generous. Instead, we propose the cut-off date 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 (as recommended by MoEF in its 1990 circulars on encroachment) 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. For sample guidelines on a democratic rehabilitation process, refer to the Future of Conservation's guidelines<sup>18</sup>.

- **Expeditious vesting of rights and a focus on Community Forest Resource**

It is imperative to ensure that those forest rights have been approved are expeditiously processed through the Sub-Divisional and District Committee accorded as per the Act. Additionally, ITDP must initiate specific awareness programmes to encourage claims on community forest resource, where applicable.

- **High degree of protection to be given to Sonai Rupai WLS and Nameri NP**

Given that Sonai Rupai WLS constitutes a critical habitat of the pygmy hog, Kalpavriksh recommends that Sonai Rupai WLS and additionally Nameri NP be declared Critical Wildlife Habitats. As specified by the Forest Rights Act, this

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<sup>18</sup> For more information, please see [http://www.atree.org/cth\\_cwh.html](http://www.atree.org/cth_cwh.html)

would imply that any human activity that negatively impacts the pygmy hog or any other conservation objective must be either reviewed, modified or restricted as deemed necessary. This should occur with due process including involvement of local people in determining its impacts, ensuring prior informed consent. In this context, human activity includes both local resource extraction by forest-dependent communities as well as large-scale extraction for infrastructure projects. Finally, the possibilities of co-management in both Sonai Rupai and Nameri should be reviewed.

• **Crucial wildlife corridors to be declared Critical Wildlife Habitat**

Segments of Balipara and Charduar Reserved Forests that connect Sonai Rupai WLS to Nameri NP and form crucial wildlife corridors should be declared a Critical Wildlife Habitat as per guidelines issued by the Ministry of Environment & Forests. This would imply that any human activity that negatively impacts wildlife or wildlife habitat must be restricted. However, if modification of people's rights is required, it must only occur with due process and after an objective, evaluation based on best available knowledge and mutual consent. Additionally, forms of co-management between forest-dwellers and the Forest Department should be encouraged in these areas<sup>19</sup>.

• **Forestland cleared after the Act's cut-off date to be regained by Forest Department and regenerated**

Any forestland that has been cleared and occupied on a date subsequent to the Act's cut-off date should be obtained by the Forest Department. The Forest Department must undertake full effort to regenerate these areas. Finally, all necessary steps must be taken to ensure that this land is not further diverted for any non-forest purposes.

• **Concrete steps to involve communities in conservation activities**

Innovative forest management techniques that garner community support should be employed to regenerate degraded forests in the area. Some mechanisms to build capacity and willingness for conservation could include:

- Exchange visits to equivalent Community Conserved Areas<sup>20</sup>
- Constitution of committees for conservation under Section 5 of the Act
- Involvement of communities in Wildlife Sanctuary Advisory Committees, eventually moving to Joint Management bodies<sup>21</sup>.

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

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<sup>19</sup> For more information, please see [http://www.atree.org/cth\\_cwh.html](http://www.atree.org/cth_cwh.html)

<sup>20</sup> Kalpavriksh is happy to provide additional information on CCAs in Northeast India.

<sup>21</sup> For more information, please see [http://www.atree.org/cth\\_cwh.html](http://www.atree.org/cth_cwh.html)

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

Additionally, we feel that given the ecological importance and fragility of Sonai Rupai Wildlife Sanctuary and Nameri National Park and the extent of damage already wrought in the area, the precautionary principle must be applied when determining what kind of human activities and resource use should continue or be restricted within these proposed Critical Wildlife Habitats.

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