

Report of 2024

REPORT OF THE ACTION RESEARCH ON HUMAN RIGHTS OF FOREST DWELLERS IN ASSAM

Jointly conducted by

Dr. R.K.B. Law College, Nowgong Law College and Kokrajhar Law College

Report of the Action Research on Human Rights of Forest Dwellers in Assam

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Nowgong Law College, Nagaon, Assam
Kokrajhar Law College, Kokrajhar, Assam

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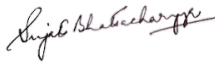
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Certificate

This is to certify that the Report of the Action Research on Human Rights of the Forest Dwellers in Assam is a report of an Action Research jointly conducted by Dr. Rohini Kanta Barua Law College, Dibrugarh, Assam; Nowgong Law College, Nagaon, Assam; and Kokrajhar Law College, Kokrajhar, Assam. The research has been conducted by Dr. Jayanta Boruah, Assistant Professor at Dr. R.K.B. Law College, and his team, and this is independent work.



Dr. Gautomi Dutta
Principal
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Declaration

It is hereby declared that this Action Research Report titled *Human Rights of Forest Dwellers in Assam* is the result of an original work, carried out as part of an action research. This is to affirm that all sources and references used in this report have been duly acknowledged, and the information has been presented by ethical research standards. Where secondary data has been employed, it has been cited. This research is not plagiarized, and no part of the report has been copied or reproduced from any previous work without proper attribution.



Dr. Jayanta Boruah
Principal Investigator

Message from the Principal of Dr. R.K.B. Law College

At Dr. R.K.B. Law College, we believe in the transformative power of legal research to create a more just society. Our participation in the *Action Research on Human Rights of the Forest Dwellers in Assam* is a testament to our commitment to bridging the gap between legal frameworks and ground realities.

The forest-dwelling communities in Assam continue to struggle for their fundamental rights, often facing displacement and exclusion. This research seeks to highlight these critical concerns and offer recommendations that can influence policymaking and legal advocacy.

I extend my heartfelt gratitude to our esteemed research collaborators, Nowgong Law College and Kokrajhar Law College, for their collective efforts. I also commend the dedication of our research team, faculty, and students, whose hard work has brought this project to fruition. Most importantly, I thank the forest communities for trusting us with their stories and perspectives.

I hope this report serves as a foundation for further legal discourse and policy reforms to safeguard the rights of forest dwellers in Assam.



Dr. Gautomi Dutta
Principal
Dr. R.K.B. Law College

Message from the Principal of Nowgong Law College

It is a matter of great privilege for Nowgong Law College to be a part of this significant *Action Research on Human Rights of the Forest Dwellers in Assam*. This research initiative, conducted in collaboration with Dr. R.K.B. Law College, Dibrugarh, and Kokrajhar Law College, Kokrajhar, reflects our commitment to legal education that extends beyond classrooms and actively engages with pressing social issues.

The forest-dwelling communities of Assam have long been custodians of nature, yet they face persistent legal and socio-economic challenges. Through this research, we aim to bring their struggles to light and contribute meaningfully to policy discussions and legal reforms.

I sincerely thank our faculty, students, and research team for their dedication to this cause. I also express my deep appreciation to the communities who shared their lived experiences with us, enriching this research with invaluable insights. May this work pave the way for a more just and sustainable future for forest dwellers in Assam.



Dr. Sujata Bhattacharyya
Principal
Nowgong Law College

Message from the Principal of Kokrajhar Law College

I am delighted to learn that Kokrajhar Law College, Nowgong Law College, and Dr. R.K.B Law College collaborated an Action Research on the topic "Human Rights of Forest Dwellers in Assam".

In this connection with the Action Research a book titled "Report of the Action Research on Human Rights of Forest Dwellers in Assam" is going to be published.

I believe that the said book will reflect the true image of the forest dwellers of Assam. This report will benefit the students, academicians, scholars, administrative officials and all concerned persons and society at large.

I am optimistic that this book will offer an ample opportunity to the young minds to seek an interest and carry forward their work in this field.

My best wishes to the entire team of all three colleges for their hard work in bringing out the true picture of the present situation of the forest villages of Assam.



Mrs. Preeta Brhama
Principal
Kokrajhar Law College

Message from the Principal Investigator

Conducting the *Action Research on Human Rights of the Forest Dwellers in Assam* has been an insightful journey, revealing the resilience and struggles of Assam's indigenous forest communities. This research has reinforced the urgent need for legal and policy interventions to secure their fundamental rights and preserve their livelihoods.

Forest dwellers, who have coexisted with nature for generations, often find themselves marginalized due to legal ambiguities and socio-economic pressures. Our study aims to present a clear understanding of their issues, advocate for their rights, and suggest meaningful solutions that align with human rights principles.

I am immensely grateful to Dr. R.K.B. Law College, Nowgong Law College, and Kokrajhar Law College for their unwavering support and collaboration in this research. My deepest appreciation goes to the faculty, and students who have worked tirelessly to bring this report to life. Most importantly, I extend my gratitude to the forest communities who welcomed us into their lives and shared their invaluable experiences.

May this research catalyze legal reforms and community empowerment, ensuring that the voices of Assam's Forest dwellers are heard and their rights upheld.



Dr. Jayanta Boruah
Principal Investigator

Acknowledgment

We sincerely acknowledge all three Principals of Dr. R.K.B. Law College, Dibrugarh, Assam; Nowgong Law College, Nagaon, Assam; and Kokrajhar Law College, Kokrajhar, Assam, for their humanitarian commitments to adopting this topic for Action Research. We are also very grateful to all the Teaching and Non-Teaching Staff of these three prestigious law colleges for their dedicated support during the research. Without their support and assistance, this research could not have been possible.

We also express our sincere thanks to those who supported us during the field visits across the state of Assam. Nevertheless, the efforts of the students of these three colleges who served as field investigators, Mr. Bhaskarjyoti Choudhury, Ms. Junu Das, Mouzi Gandri Society, the Forest Range and Other Officers, Concerned Divisional Forest Officers, Forest Rights Committee members, JFM members, VCDC members and all other members of different organizations served as valuable contributions without which the conclusion of this research could not have dreamt about.

We also acknowledge the contribution of Padmashree Jadav Payeng (the Forest Man of India), Mr. Chandrakanta Basumutary (Former Brand Ambassador, State Forest Department), and all those academicians whose valuable insights helped in understanding and analyzing the problem of the research subject.

We also thank those forest dwellers and local villagers of the fringe areas whose opinions made these research findings practical. Their true contributions were inspiring for us during the research.

In addition, we thank all those whose contributions have been utilized in writing the report. At last, we thank the Almighty for the blessings that made this research possible.

Executive Summary

This study provides a comprehensive analysis of the human rights of forest dwellers in Assam, addressing historical injustices, legal ambiguities, socio-economic challenges, and the intersection of conservation policies with indigenous rights. It highlights the complexities of forest governance, the struggles faced by forest-dependent communities, and the urgent need for a balanced approach that integrates both environmental conservation and human rights protection.

Background and Objectives

The study is set against the backdrop of India's colonial and post-colonial forestry policies, which have systematically marginalized forest dwellers. These communities, who have lived in Assam's forests for generations, have faced displacement, economic hardships, and legal restrictions due to conservation efforts that often overlook their traditional rights. The research aimed to:

1. Examine the legal and policy frameworks affecting the rights of forest dwellers.
2. Assess the socio-economic conditions of these communities.
3. Analyze conflicts between conservation policies and indigenous rights.
4. Provide policy recommendations to enhance the recognition and protection of forest dwellers' rights.

Methodology

The study employs both doctrinal and non-doctrinal research methodologies. Doctrinal research includes an analysis of legal frameworks, policies, and judicial precedents related to forest rights. Non-doctrinal methods involve empirical data collection through surveys and interviews with forest dwellers, forest officials, NGOs, and other stakeholders. The field study covered 31 districts in Assam, where 620 forest dwellers and 80 representatives from various organizations were surveyed.

Key Findings

- The Forest Rights Act (FRA) of 2006 was intended to address historical injustices, but its implementation in Assam has been inconsistent.

Human Rights of the Forest Dwellers in Assam

- Bureaucratic delays, political influences, and lack of awareness have led to many eligible forest dwellers being unable to claim their rights.
- The distinction between Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs) has excluded many non-tribal communities from legal recognition.

Classification of Forest Dwellers

The study categorizes forest dwellers into different groups based on their legal status:

- **Revenue Villages:** Under civil administration but located near forests.
- **Non-Revenue Villages:** Under forest department jurisdiction, including traditional forest villages.
- **Encroacher Villages:** Settlements deemed illegal by the forest department.
- **Fringe Villages:** Close to forests, with significant engagement in forest-related activities.

Each category faces unique challenges related to land ownership, access to resources, and socio-economic development.

Economic Challenges

- Traditional livelihoods such as shifting cultivation and forest product collection have been restricted due to conservation policies.
- Alternative employment opportunities remain scarce due to poor infrastructure and lack of educational facilities.

Access to Education and Healthcare

- Many villages lack schools, resulting in high illiteracy rates and limited socio-economic mobility.
- Healthcare facilities are minimal, leading to poor health outcomes, especially among women and children.

Conservation vs. Human Rights

- Strict conservation policies have led to forced evictions, loss of traditional livelihoods, and conflicts between state agencies and local communities.
- Despite evidence that community-led conservation efforts can be highly effective, existing policies rarely incorporate indigenous knowledge and sustainable practices.

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- The study suggests that a participatory approach, involving forest dwellers in decision-making, would yield better conservation outcomes while protecting their fundamental rights.

Political and Social Conflicts

- The classification of forest dwellers into legal and illegal categories has created social divisions and tensions.
- State interventions have sometimes exacerbated conflicts among different groups, undermining community solidarity.
- The study calls for conflict resolution mechanisms that are inclusive, transparent, and sensitive to local socio-cultural dynamics.**Policy**

Recommendations

To address these challenges, the study advocates for:

- i. Immediate demarcation of the forest boundaries shall be made and the residents of the protected areas shall be rehabilitated to the buffer zones.
- ii. The period of 75 years as required for the OTFDs to claim forest rights under the FRA Act, 2006 shall be reduced to 1980 so that it prevents any sort of discrimination between the STs and the OTFDs and also the period suggested by the Citizenship Act will conform.
- iii. Higher autonomy shall be provided to those who are proven beneficiaries under the FR Act, 2006 to manage the forest resources and regulatory agencies should be strictly instituted to monitor the compliance to their duties in exchange for the rights they enjoy.
- iv. To minimize the non-forestry activities inside the protected forest areas and to facilitate better infrastructure for the forest dwellers, the forest dwellers residing inside such areas shall be rehabilitated to the buffer zones and shall enable them to access the infrastructure of the civil administration at their convenience.
- v. Policy should be enacted to check the encroachments by illegal immigrants and to reduce the vote bank influences.

Thus, the study underscores the need for a balanced approach that respects both environmental conservation and the fundamental rights of indigenous and forest-dependent populations. It calls for urgent policy reforms, greater community involvement in forest governance, and improved socio-economic interventions to ensure justice and sustainability for Assam's Forest dwellers. Addressing these

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issues holistically, with a focus on legal empowerment, socio-economic development, and participatory conservation, will be key to creating a more just and sustainable future for these communities.

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Chapter I

Introduction

A crucial component of the larger conversation about environmental justice, land rights, and indigenous rights is the human rights of the forest dwellers of Assam. Assam, a state in Northeast India is known for its abundant biodiversity and deep forests, which have long provided generations of shelter to many indigenous people. The struggle for the forest dwellers' recognition and protection of their human rights is complex, encompassing concerns about land ownership, rehabilitation, cultural identity, and sustainable development.

Forests of Assam and other wastelands, once accessible to everyone and treated as village commons, came under intense attack when woodlands were converted into tea gardens and other commercial outlets during the British administration. The Bengal Forest Act of 1865, which divided forests into reserved and open areas, placed the forests of Assam under the jurisdiction of Forest Departments in 1874. In reserved forests, the Forest Departments possessed complete control over the commercialization of forest resources; but, in open forests, their authority was restricted. However, the Assam Forest Regulation of 1891 created a new class of forests known as Unclassed State forests, extending State sovereignty over open forests to include economic use. The Assam Forest Regulation, 1891, established a system known locally as "*begar*" that required the local communities to perform physical labour for the Forest Departments to secure their basic needs from the forests. All of these legal developments excluded the local communities from the management of the forests. The legal structure promoted the "people-free zone" strategy for the conservation and protection of forests, but it ultimately failed to address the problems of deforestation and satisfy the growing need for forests. Likewise, other conservation policy measures were adopted that denied the local communities rights over forest access.

The government was then compelled to acknowledge the significance of local communities in the sustainable management of forests as a result of widespread deforestation, international pressure to conserve forests, and community dissatisfaction over the loss of customary rights over the forests. As part of the National Afforestation Policy, the Indian government established the Joint Forest

Management in 1990. In 1998, Assam also introduced the Joint (Peoples' Participation) Forestry Management Rules. The fundamental tenet of joint forest management is that property rights over common property resources like forests cannot be determined solely by legislation; rather, a state-society partnership is necessary to secure property rights. In addition, the Forest Rights Act, of 2006 was passed to address the historical injustice faced by the local forest dwellers. It recognizes the rights of individuals, communities, and forest dwellers across India, including Assam, to management and individual rights. Nonetheless, there have been intense discussions about these legal measures' effectiveness in addressing the current issues surrounding the concerns for ensuring the basic human rights of forest dwellers and ensuring sustainable forestry in Assam and throughout India.

1.1. Concept of Human Rights

The idea of human rights transcends national, cultural, and political boundaries and is fundamental to the values of justice, equality, and dignity for all people. Human rights serve as a normative framework that defines the fundamental freedoms and rights that each individual has as a result of their humanity. Human rights serve as a normative framework that defines the fundamental freedoms and rights that every individual has as a result of their humanity.

Although the concept of human rights transformed since the existence of humanity through various religious, philosophical, and cultural articulations across civilizations, the modern notions of human rights emerged after World War II as a result of preventing future holocausts and atrocities against humanity. It was the Universal Declaration of Human Rights (UDHR), 1948 that first attempted to provide an exhaustive list of different human rights that a person is entitled to enjoy for him/her being a human (United Nations General Assembly, 2007). Later International Covenants on Civil and Political Rights (United Nations General Assembly, 1966) and Social and Economic Rights (United Nations General Assembly, 1966) in 1966 respectively elaborated the dimensions of human rights by classifying them into distinct groups and also provided for monitoring mechanisms at the international levels. In addition, regional instruments have also contributed to the elaboration of the concept of human rights concerning the unique geographical situations of the respective regions.

Human rights are inalienable. Such rights can neither be surrendered nor transferred (Donnelly, 2003). Human rights are interconnected and independent and recognize the interplay between civil, political, economic, social, and cultural rights. The realization of one set of rights thus depends on the realization of another set of rights (Alston, 2006). The concept of human rights is also based on the principle of non-discrimination whereby no individuals or groups shall be discriminated against on the grounds of sex, race, place of birth, religion, or any other socially created grounds of discrimination (Fredman, 2023).

However, contemporary debates have raised questions on the uniform understanding of human rights that lacks mutual agreement between scholars. For instance, debates between cultural relativism which argues for respecting diverse cultural values and practices, and universalism which argues for a common set of standards for human rights (Donnelly, 1984). Such debates assume a lot of significance in deciding whether indigenous local communities shall have a distinct set of human rights respecting their unique identities or shall have a common set of human rights with all other human counterparts with no discrimination. In addition, the meaning of human rights is also changing over time with the changes in society. Technological innovations for instance have raised new challenges in the form of challenges like the right to privacy in a digital age; the ethical implications of artificial intelligence; and the freedom of expression on digital platforms. Simultaneously, global issues like climate change have incorporated the right to environment as a basic human right for the protection of other human rights like the right to health, shelter, and an adequate standard of living. All these instances however make the debate on the human rights of forest dwellers even more interesting since most of the forest dwellers are indigenous population of the territory and their unique practices make their status even more critical.

1.2. Concept of Forest Dwellers in India

The Forest Rights Act of 2006 was introduced in India to address the longstanding injustices experienced by communities dependent on forests. This law acknowledged these communities as the original inhabitants of the forests where they live and granted them legal recognition of their rights over forest land and resources (MoTA, 2014). Additionally, it included provisions to safeguard their traditional institutions. The Act identified two distinct groups among

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genuine forest dwellers: "Forest Dwelling Scheduled Tribes" and "Other Traditional Forest Dwellers" (OTFDs).

Forest Dwelling Schedule Tribes means

“the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs and includes the Scheduled Tribe pastoralist communities” (Government of India, 2006)

While OTFD means

“any member or community who has for at least three generations before the 13th day of December 2005 primarily resided in and who depend on the forest or forests land for bona fide livelihood needs.” (Government of India, 2006)

Thus, the Act intends to benefit the original inhabitants of the forests. However, the identification of the original inhabitants of contemporary India remains a complex and ambiguous issue. Various theories offer different perspectives on this subject. One theory attributes the decline of the Harappan Civilization to natural disasters, while another suggests it was caused by the Aryan invasions. Regardless of the reasons, it is widely believed that the non-Aryans living in the subcontinent during the Aryan invasion are considered the indigenous people of India. These non-Aryans were initially perceived as antagonistic figures and later relegated to a lower societal status, often assigned menial tasks by the Aryans.

The Sanskrit term *atavikajana* refers to groups with unique cultural traits and territorial bonds (SR, 2020). Over time, these indigenous peoples suffered significant exploitation at the hands of various invaders, leading to underdevelopment, religious conversions, and the loss of their traditional rights and autonomy. In India, such Aboriginal communities are commonly referred to as tribal communities.

The concept of "tribe" has its roots in the colonial era, when certain communities were categorized as tribal based on their economic, social, political, and cultural characteristics. Colonial narratives painted a picture of poverty, backwardness, isolation, and a distinctive political identity among these groups. While the colonial administration referred to these groups as "tribals," the communities themselves saw others as outsiders. Terms like "noble savage" were used to highlight the disparity between the tribal way of life and the capitalist world.

Tribes were often defined by their practices, such as food gathering, animism, and shifting cultivation, although these classifications were criticized as arbitrary, as the distinction between tribes and castes often blurred (SR, 2020).

Debates about how to administer tribal communities gained momentum toward the end of the colonial period. While one perspective advocated for their isolation and self-governance, another pushed for their assimilation into mainstream society. After India's independence, the Constitution adopted a policy of progressive integration for tribal communities.¹ It introduced the term "Scheduled Tribes" (STs) to identify specific tribal groups eligible for special protections and opportunities. The criteria for identifying STs include traditional occupation of specific geographical areas, distinctive cultural traits, a lack of education and technological advancement, and economic underdevelopment (ILO, 1957).

Jaipal Singh proposed the term *Adivasis* to describe these communities, but B.R. Ambedkar opposed it, arguing that it lacked legal specificity, unlike "Scheduled Tribes," which is constitutionally defined. The Constitution recognizes "Scheduled Tribes" as groups with unique customs, cultural norms, traditional lifestyles, and significant economic challenges. Their defining traits include nomadic habits, a preference for alcohol, simple living practices, and habitation in remote, often inaccessible areas. These characteristics continue to shape the identity of tribal communities in India. Such people are mostly sheltered in the remote areas of dense forests or the forests of the hilly regions. Many scholars have defined STs as synonymous with Aborigines, for instance: M.P. Jain states that

"Scheduled Tribe (ST) also known as aborigines are those backward sections of the Indian population who still observe their tribal, their own peculiar customs, and cultural norms." (ILO, 1957)

However, in India, although there are many laws and policies adopted for the welfare of the tribal population besides the Constitution, the term 'tribe' has not

¹ "Acculturation is often tied to political conquest or expansion and is applied to the process of change in beliefs or traditional practices that occurs when the cultural system of one group displaces that of another." available at: <https://www.merriam-webster.com/dictionary/acculturation> (last visited on November 20, 2022).

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been defined specifically in any of the laws of the land. Article 366(25) of the Constitution reads as follows:

“such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribe for the purpose of this Constitution.” (Constituent Assembly, 1950)

Under the Indian Constitution, the power to designate certain communities as Scheduled Tribes (STs) and certain areas as Scheduled Areas lies with the President under Article 342 and paragraph 6 of Schedule V. However, before notifying an area as a Scheduled Area, the President must consult the state government where the area is located. While the President has the authority to notify such areas, it is the Parliament that holds the power to amend or alter these notifications. Over time, the President has issued several ordinances to expand the lists of STs and Scheduled Areas (Constituent Assembly, 1950). The Supreme Court has ruled that courts have no jurisdiction to alter, add, or exclude any member from the ST list or any area from the Scheduled Areas once notified by the President (India Patent No. 8 SCC 264, 1996).

The Constitution does not explicitly define criteria for determining STs or Scheduled Areas, but these have been shaped by recommendations from various commissions and committees. Factors considered for declaring a Scheduled Area include a significant tribal population, compactness and size of the area, its level of underdevelopment, and economic disparities. For identifying STs, attributes such as a primitive way of life, nomadic habits, a preference for drink and dance, and residence in remote regions are typically considered. The ST list varies between states, and if a member of an ST community migrates to another state, they do not gain ST status in the new state but retain it in their state of origin.

In essence, the characteristics of STs in India closely align with those of Aboriginal peoples globally. However, not all individuals designated as STs are necessarily Aboriginal in the strictest sense, as some may have acquired tribal characteristics due to exploitation by invaders. Similarly, many Aboriginals have lost traditional tribal attributes through processes like Sanskritization, Hinduization, or religious conversion, integrating into mainstream society. Despite these complexities, the concept of Aboriginals in India is predominantly identified with Scheduled Tribes today.

Thus, in India generally, STs refer to the original inhabitants of the land if looked upon from the legal point of view while concerning rights over forest resources and lands, ST communities, and OTFDs (residing for 75 years before December 13, 2005) are legally held as local communities of such forest areas. These two communities together constitute the term ‘forest dwellers’ in India.

1.2. Statement of Problem

Forest dwellers although entitled to all the basic human rights like any other human being, suffer multiple issues in exercising such rights. Such issues primarily arise when conflicts between concerns for environmental protection and anthropogenic interferences with nature arise and also when initiatives for development through the exploitation of natural resources under the possession of the local forest dwellers and the rights of such forest dwellers emerge.

A large number of forest dwelling communities are getting displaced and dispossessed due to developmental projects undertaken in the forest traditionally resided by such communities within the protected areas (Batabyal, 2019). During such displacement, studies have revealed that such communities suffer from discrimination and remains vulnerable to violence including brutality from police, intimidation and political as well as socio-economic exploitations (Singh & Rawat, 2017). The rights of these communities often get unrecognized under the forest management laws and even if recognized such rights lack adequate implementation (Government of India, 2006). Even when the concerns for recognition of the rights of forest dwellers are brought before the policymakers, they often get negotiated with the concerns for the conservation of forests leading to conflicts between conservation efforts and the rights of the forest communities (Sarkar & Bhagawati, 2018). In addition to all these issues, they also suffer from isolation from developmental activities since due to remoteness of their residence, they remain aloof from developmental and welfare initiatives like health services; educational benefits and other essential services.

In India, after the British invasion, the traditional forest dwelling communities lost a significant portion of their rights over forests due to colonial practices of exploitation. After the independence, the rights of such communities were still ignored and for restoring the massive exploitation of the forests, the policy of a “people-free zone” was exercised for the management of forests. However, with the international recognition of the rights of indigenous peoples and the concept of sustainable forestry through active participation of local communities, the

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forest policies of India gradually started recognizing their rights for encouraging greater participation of the local communities in the management of forests (Tamuli & Choudhury, 2009). But such policies created confusion and conflicts between state agencies, conservationists, and local communities.

To encourage local community participation in the management of forests, the Joint Forest Management (JFM) system was adopted. But this system came into conflict with the provisions of the Panchayat (Extension to Scheduled Areas) Act 1996 and also with the Forest Rights Act, 2006 (FRA). National Forest Rights Act Committee even suggested for putting an end to the JFM system after FRA implementation is accomplished. Thus, the investments made in implementing the JFM system and the progress made so far have all become a matter of wastage that significantly influences the rights of forest dwellers.

Moreover, the local communities of Assam were rarely dependent on the forests since there was abundant land for agriculture. However, due to severe natural calamities like floods and earthquakes and also due to other socio-political factors like militancy and mass revolutions, the dependency on forest land for survival for the local communities increased. However, the recent Forest Rights Act, 2006 has failed to recognize this unique situation prevailing in Assam. Section 2(c) of the Act provides that forest dwellers to qualify for the forest rights under the category of Other Traditional Forest Dwellers (OTFDs) shall possess valid documents of 75 years of residence within the concerned forest areas. But such a provision is highly irrelevant in the context of Assam and it has created situations in Assam where even the Gauhati High Court in 2009 ruled that there is no forest dwelling community in Assam (MoEF/MOTA Committee on Forest Rights Act, 2010) that further aggravated the issue of the rights of forest dwellers in Assam. The FRA, 2006 makes a classification between the Scheduled Tribes and the OTFDs but there appear no material differences between these two communities concerning their economic and political conditions. Such a classification has created conflicts between these two communities who have resided in harmony since independence. The Act has discriminated against the non-tribal forest dwellers of Assam (Tamuli & Choudhury, 2009).

The Panchayat (Extension to Scheduled Areas) Act, 1996 served as the model for the Forest Rights Act, 2006; nevertheless, the Act was not implemented in Assam (Kumar, 2016). Furthermore, there is a lack of clarity in the Forest Rights Act regarding the role of Gram Sabhas in recognizing rights under the Act in

various types of villages. This allowed the State to circumvent important Act provisions that were intended to guarantee an open, democratic, and transparent process for resolving disputes arising under the Act (Sarin & Springate- Begnski, 2010).

All these issues have raised some significant questions for analysis of which, this study assumes a lot of importance. The study therefore focuses on the following questions:

Whether the forest dwellers possess the same human rights enjoyable by non-forest communities owing to their interferences with the management of forests?

Whether the human rights of forest dwellers be protected without compromising the conservation of forests and their resources?

Whether the forest-dwelling communities be made a part of the management of forests on the lines of sustainable forestry? And

Whether the forest-dwelling communities of Assam are enjoying the basic human rights entitled to them while being a stakeholder in the management of forests?

1.3. Review of Literature

The modern conception of human rights originated from the Universal Declaration of Human Rights (UDHR) that defined not only the basic human rights but also the parameters to assess the enjoyment of such rights (United Nations General Assembly, 1948). Subsequently the concept of human rights was further specified by the two International Covenants on Civil and Political Rights and Social and Economic Rights in 1966 respectively. These two Covenants besides defining the human rights also elaborated their dimensions and provided for mechanisms for monitoring the implementation of the human rights (United Nations General Assembly, 1966). In addition, various regions have developed their own human rights instruments, such as the European Convention on Human Rights, the American Convention on Human Rights, and the African Charter on Human and Peoples' Rights. These instruments tailor human rights principles to the specific context and needs of each region.

The human rights have been defined in a number of ways by different scholars. An assessment of such definitions provide that human rights are inalienable in

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nature. Therefore, such rights can neither be surrendered nor transferred (Donnelly, 2003). Human rights are interconnected and independent that recognizes the interplay between civil, political, economic, social and cultural rights. The realization of one set of rights thus depends on the realization of other set of rights (Alston, 2006). The concept of human rights is also based on the principle of non-discrimination whereby no individuals or groups shall be discriminated on the grounds of sex, race, place of birth, religion or any other socially created grounds of discrimination (Fredman, 2023).

Thus, the international legal framework and the academic literature clearly establishes the proposition that the legal framework ensuring human rights encompasses the protection of both individual and collective rights of all human beings including the indigenous forest dwellers irrespective of their domestic cultural, social, economic, and political setup (United Nations General Assembly, 2007). Arun Agarwal and Elinor Ostrom through their research proved that ensuring the economic well-being of forest residents requires effective forest governance that upholds their rights. Economic rights abuses, poverty, and displacement can result from inadequate identification and protection of these rights (Agarwal & Ostrom, 2001). The World Health Organization asserted that there is growing recognition that one of the fundamental components of human rights is the right to a healthy environment. This includes safeguarding forest dwellers against pollution, environmental deterioration, and the effects of over-exploitation of natural resources (Shelton, 2016). Moreover, forests are essential sources for survival of the forest dwellers and the enjoyment of their basic human rights depends on their capacity to utilize and access the forest resources. However, forests are also essential for the entire humanity to survive since forests provide for the basic ecosystem services required for the survival of the entire planet that demands for conservation of the forests (The World Bank, 2013). Both the forest dwellers and the non-forest dwellers are dependent on forests but with varying degrees and their dependency also varies in nature that results into conflicting interests with each other.

Furthermore, the realization of human rights by the forest dwellers suffers from many obstacles. Conservation of natural resources often comes into conflict with the enjoyment of human rights of the local communities (Roe, et al., 2010). These issues also influence the enjoyment of the human rights by the forest dwellers politically, socially culturally and also economically. While the forest dependent communities also suffer challenges from state-sponsored or capitalist

oriented developmental projects resulting into deforestation. Even the World Bank suggested for adapting inclusive approaches to address environmental and social risks associated with such projects (The World Bank, n.d.). in addition, land rights are essential human rights for forest dwellers, because disagreements over who owns and uses land can result in forceful eviction. Sufficient legal frameworks and dispute resolution procedures are crucial (Nadwani, 2022).

On the other hand, literatures have also showed that traditional knowledge of the indigenous forest dependent communities is necessary for sustainable forestry. The Global Forest Resource Assessment Report 2020 (Food and Agriculture Organization, 2020) and Goals Report 2021 (United Nations Department of Economic and Social Affairs, 2021) besides analysing the status of world forestry and its resources, highlighted with examples that how local communities can ensure sustainable management of forests if adequate representation of their rights is provided within the framework for management. Based on such propositions, a shift has been witnessed in the international jurisprudence where the rights of the local communities are not protected only for protecting their interests but also for enabling them to participate in the process of management for the broader interest of the humanity (Boruah, 2023).

In India too, the role of forest dwelling communities has been legally recognized and accordingly laws and policies have been framed for encouraging active participation of such communities and also for addressing the historical injustice faced by them. In this attempt, the Forest Rights Act, 2006 is a landmark legislation in India that aims at protecting the traditional rights including both individual and community rights of the traditional forest dwellers for encouraging them to participate in the management of forests (Government of India, 2006). However, Vijender Kumar has critically made an analysis of the Act and has outlined the major drawbacks of the Act influencing its implementation across the country (Kumar, 2016). Ashutosh Ranjan Srivastava and Nilakshi Barman have critically analysed the entire policy framework on forests and concluded that forests in India are solely under State ownership since the time of British administration and although attempts were made for achieving community participation in the management of forests in the policy discourse, the objective of such participation could not be achieved as expected (Srivastava & Barman, 2019). In addition to these literature, reports of important commissions on tribal rights and forestry issues were also analysed. Some of such commissions are Reports of the Dhebar Commission 1961; the National Agriculture Commission

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1976; the Working Group on Tribal Development during the Sixth Plan (1980-85); the Committee on Forests and Tribals in India, 1982; the National Forest Commission (NFC), 2006; the National Committee on Forests Rights Act, 2010; etc. All these reports together with the above literature on the rights of local forest dwelling communities have highlighted the significant issues that influences the capacity of these communities for exercising their human rights. These issues are multifaceted and politically as well as socially dynamic and diversified. The approaches adopted to understand such issues also needs to be dynamic and diversified that have been found lacking in the existing literature.

In Assam too studies were conducted on the status of forests and forest dwelling communities. The Assam Institute of Research for Tribals and Scheduled Castes published a report way back in 1991 on the problems of forest villages in Assam inhabited by Tribal population. In this report the number of forest villages then existing were reported and accordingly classified into tribal and non-tribal villages by assessing the demographic composition of such villages for understanding the major problems faced by the tribal inhabitants (Report of the Study on the Problems of Forest Villages in Assam Inhabited by Tribals., 1991). This literature proves that the division between tribal and non-tribal communities was in existence much before the Forest Rights Act was enacted. However, the distinction was not based on economic or social conditions of the communities. But this report however laid down the foundation for the present study. Arupjyoti Saikia through his research demonstrated that how the local forest dwellers in Assam have been facing historical injustice at the hands of the State agencies since the colonial phase. He with historical evidence proved that the local the settlement of forest villages and the recognition of the rights of the forest dwellers were subjected to the discretion of the State for the purpose of exploitation of the forest resources and later after independence the same scenario continued for the satisfaction of political interests rather than the interests of the local forest dwellers (Saikia, 2011). Chandra Jyoti Sonowal highlighted the dismal condition of the forest dwellers in the Dibrugarh district of Assam through an empirical study conducted in 1997 (Sonowal, 1997).

For evaluating the status of implementation of the Forest Rights Act, 2006 in Assam a committee on Forests Rights Act was constituted jointly by Ministry of Environment and Forests and Tribal Affairs who published a report in 2010. The 2010 report highlighted the important issues that impacts the realization of the basic rights of the forest dwellers. Most importantly the report highlighted

that there is a wide gap between the theoretical understanding of the issues of the forest dwellers and their practical reality. It also focused on the main differences between the State of Assam and the rest of India with respect to the management of forests and settlement of forest rights in Assam (Report National Committee on Forest Rights Act, 2010). Indrani Sarma also made similar proposition and alleged the improper implementation of the Forest Rights Act. Sarma in her paper asserted that the situation of Assam is not similar to that of rest of India and therefore a uniform legislation might not be efficient enough for doing justice to the forest dwellers as well as for improving the current management system of the forests. Further Jitu Tamuli and Saswati Choudhury criticized the forest policies by holding that the contemporary forest policies have not only de-recognized the rights of the forest dwellers in Assam but has also negatively impacted the management of forests through such de-recognition. They advocated for active participation of the local communities in the management of forests for sustainable forestry for which recognition of the rights of the forest dwellers become necessary (Tamuli & Choudhury, 2012).

The literature review above has clearly established the issues that forest dwellers face with respect to the realization of their human rights. The review has significantly drawn the relation between the forest dwellers in Assam and the historical injustice they had been facing since the time of British invasion. The inadequacies in the theoretical understanding of such issues during the framing of policies and the gap between the objectives and implementation of such policies for recognizing the rights of forest dwellers and establishing sustainable forestry have also been critically evaluated. However, there exist a gap in the literature with respect to the diversified unique situations prevailing across different communities of forest dwellers settled in different local geographical boundaries that demands further assessment for bringing a uniform solution that suits best for a majority of such communities. Moreover, there exists a difference with respect to legitimate forest dwellers in fact and in law. The existing literature has mostly evaluated the legitimacy of the forest dwellers as per the law; however, such differences also exist in fact that have been not adequately recognized due to lack of proper documentation. Furthermore, the law has recognized the legitimacy as a matter of uniformly existing parameters across the country without realizing the unique cultural diversity and social setup of the different communities in Assam that have been residing together in harmony since independence. Therefore, recognition of human rights of such forest dwellers demands a careful study considering the different classifications of forest dwellers

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in fact rather than depending merely on the uniformly framed national parameters. The researcher will therefore study the relationship between the local forest dwellers and the management of forests in Assam under the existing legal framework on the lines of the global and national standards determined for achieving sustainable forestry.

1.4. Objective

The objectives of the study are as follows:

- i. To study the status of the human rights of the forest dwellers under the national and local laws;
- ii. To study the interrelationship between the basic human rights laws and the forest management laws and their influences upon the forest dwellers;
- iii. To study the status of the human rights of the forest dwellers in Assam.

1.5. Methodology

The study is based on both doctrinal and non-doctrinal methods of research. The background of forest management and the rights of forest dwellers; the laws and policies on human rights and the management of forests; and the various judicial decisions on the rights of forest dwellers in India have been studied through the doctrinal method. The primary sources of data for the doctrinal method are legislation, reports of various committees, and case laws. The secondary sources of data include journal articles, scholarly books, periodicals, newspaper articles, internet sources, commentaries, etc.

With the help of the non-doctrinal method, the status of the forest dwellers concerning the basic human rights they enjoy has been studied by comparing with the findings of the doctrinal study. For this method, surveys with the local forest dwellers; structured interviews with the stakeholders in the management of forests including forest officials, VDC members, Panchayat members, Non-Governmental Organizations (NGOs), and other self-help groups (SHGs); and unstructured interviews with Padmashree Jadav Payeng (Forest Man of India) and Mr. Chandrakanta Basumutary (Former Brand Ambassador of the Assam Forest Department) were conducted.

1.6. Relevance of the Study

The research on the human rights of the forest dwellers of Assam is extremely important since it tackles important problems pertaining to indigenous groups and their use of forest resources in the current sociopolitical environment. Understanding and resolving the issues faced by forest dwellers, especially in the setting of Assam, makes this action research necessary.

The indigenous peoples of the land contribute to the identity and the cultural diversity of the land. Therefore, historical analysis of the indigenous peoples' rights has become a recurrent theme of literature in contemporary times. It becomes necessary to provide an insight into the historical injustice and the erosion of the traditional rights of the forest communities (Guha & Gadgil, 1989) who not only maintains the cultural diversity but their unique lifestyles also teach the humanity to survive in harmony with the nature. Therefore, this study assumes a greater insight not from the perspective of the forest dwellers' rights in Assam but also from ecological perspective.

The analysis of the existing legal framework that defines the status and rights of the forest dwellers also becomes important to understand their position in the management of forests. Studies have enumerated the major drawbacks of the forest laws like the Forest Rights Act 2006 (Prantik, 2008) that makes this action research even more important with respect to Assam.

Scholarly articles have also emphasized on the conflicts between conservation policies and the livelihood of the forest dependent communities (Agarwal, 2005). Such conflicts demand a balanced approach that secure both the objective of the conservation policies and the rights of the forest dwellers. This demand makes this study even more important whereby a balanced approach could be identified for the policy makers to address both the issues of human exploitation of natural resources and the exploitation of the forest dwellers in Assam through the conservation policies.

It is also important that while protecting the human rights of the forest dwellers priority shall be given to social justice and inclusivity. Researches have already emphasized on the capability approach that is necessary for determining the well-being of the forest dwellers beyond mere economic indicators that broadens the understanding of human rights (Sen, 1999). Therefore, for a comprehensive understanding of the human rights of the forest dwellers of Assam, this study

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assumes importance where the sociological indicators will also be focused along with their capabilities in ensuring an environment of harmonious existence.

The action research on the forest dwellers' human rights is extremely pertinent in light of the past injustices, intricate legal system, environmental concerns, and larger social justice framework. The study can be strengthened by incorporating these academic resources, offering a solid basis for well-informed policy suggestions and initiatives that protect the rights and dignity of Assamese communities who live in forests.

1.7. Scope and Limitation of the Study

The scope of the research extends to the whole of the State of Assam with an analysis of the International and Domestic Legal Framework concerning the human rights of the forest dwellers in Assam. It includes the assessment of the position of various other stakeholders involved in the management of forests in Assam for a better understanding of the contemporary system of forest management.

Nevertheless, the empirical study's scope is restricted to the state of Assam, and not all of the districts fall under its reach. It was not possible to study the districts of Majuli, Shivsagar, and Barpeta. Furthermore, the results are significantly overgeneralized because only 620 samples of the local community were surveyed, and 80 samples of other populations representing various stakeholders involved in the management of forests were interviewed. However, it is anticipated that the findings will offer a reliable assessment of the current state of the forest dwellers of Assam.

1.8. Chapterization

Chapter I: Introduction

The chapter introduces the variables of the study and the interrelationships between them. It mentions the statement of the problem of the study, the objective of this research, the methodology adopted, and the literature reviewed.

Chapter II Forest Profile of India and Assam

The chapter provides a brief insight into the forestry sector of India as a whole and of Assam in particular. It highlights the geographical cover, biodiversity

extent, and the functions of forests to give an understanding of the extent of forest cover and its importance in India.

Chapter III Legislative Framework on Human Rights of Forest Dwellers and Management of Forests

It analyses the major national, and local laws that influence the exercise of human rights of the forest dwellers and the management of forests. The chapter attempts to understand how the domestic legal framework and its implementation are influenced by the ground realities. In short, the chapter attempts to highlight the major drawbacks in the existing legal framework on the human rights of forest dwellers and the management of forests.

Chapter IV Status of Human Rights of Forest Dwellers in Assam

The chapter analyses the status of the forest dwellers in Assam through empirical study. The chapter attempts to identify the different classes of forest dwellers, their unique situations, and their legal status of residence. It also analyses the responses from the representatives of the different stakeholders involved in the management of the forests as well as working for the welfare of the forest dwellers. Moreover, it also analyses and interprets the empirical data by comparing it with the pre-existing literature on similar issues. At last, it makes a conclusion highlighting the major contemporary issues that influence the human rights of the forest dwellers in Assam.

Chapter V: Conclusion

This chapter finally concludes the research by highlighting the major findings of the study. It attempts to provide suggestions for the improvement of the present scenario where the Bonafede local forest dwellers could enjoy their basic human rights in harmony with their counterparts.

Chapter – II

Forest Profile of India and Assam

2.1. Forest Profile of India

India is known for its geographical diversity. It consists of a huge portion of land under forest cover. However, due to several factors, the country has been witnessing massive deforestation for the last two centuries. This section shall highlight the important nature of the forests in India along with their functions and ownership patterns.

2.1.1. Geography

The total forest cover in India is 7,13,789 sq. km. which constitutes 21.71% of the total geographical area as per the India Status of Forest Report 2021 (ISFR). Multiple types of forests are found in India which include: Tropical wet evergreen forests; Tropical semi-evergreen forests; Tropical moist deciduous forests (Southern and Northern types); Littoral and Swamp forests; Tropical dry deciduous forests; Tropical thorn forests; Tropical dry evergreen forests; Sub tropical broad leaved hill forest; Subtropical dry evergreen forest; Mountain wet temperate forest; Himalayan moist temperate forest; Subalpine forest; Himalayan dry temperate forest; Subalpine forest; Most alpine scrub; and Dry alpine (Agri Info, 2022).

This Report has classified the forest cover into three broad categories *viz.*- Very Dense Forests (VDF); Moderately Dense Forests (MDF) and Open Forests (OF). It has also provided for scrub areas and non-forest areas for calculating the total forest cover in India. The VDF occupies an area of 99,779 sq. km.; MDF occupies an area of 3,06,890; OF covers an area of 3,07,120; scrubs amount to 46,529 sq. km.; and the non-forest area is about 25,27,141 sq. km (Agri Info, 2022).

The share in proportion of each category is depicted in the following figure:

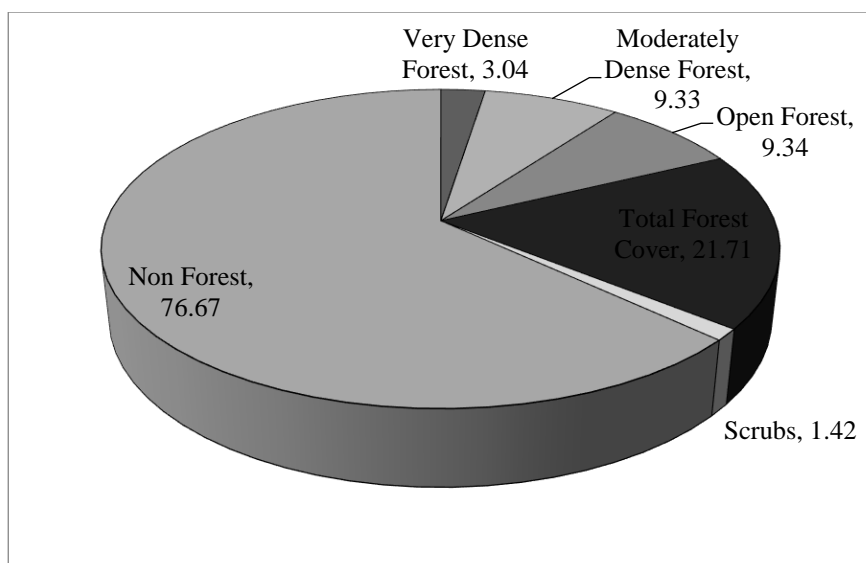


Figure 2.1: Categories of Forest Cover in India in Percentage (FSI, 2021)

The Report has provided that forest cover has increased by an area of 1,540 sq. km. at the national level. At the state levels, Andhra Pradesh, Telangana, Odisha, Karnataka, and Jharkhand have contributed to an increase of forest cover amounting to 647 sq. km., 632 sq. km., 537 sq. km., 155 sq. km. and 110 sq. km. areas respectively. While on the other hand states like Arunachal Pradesh, Manipur, Nagaland, Mizoram, and Meghalaya have shown a decrease in the area of forest cover by 257 sq. km., 249 sq. km., 235 sq. km., 186 sq. km., and 73 sq. km. respectively. The reasons for such a decrease were held as due to shifting cultivation; anthropogenic pressure; natural calamities; the felling of trees; and developmental activities. These changes indicate changes in forest cover both inside and outside the recorded forest areas (RFA). RFA includes forests that are recorded as forests in government documents including reserved forests and protected forests constituted under the Indian Forests Act 1927 and other state laws, or are recorded as forests under Revenue Records on any other State Acts, or local laws that possess around 10% canopy density. Forests outside RFA have more than 10% canopy density. But they are not recorded as forests in any government documents. The Report revealed that the area of forest cover inside RFA is 5,16,630 sq. km. while the area outside RFA is 1,87,159 sq. km. A comparative analysis between the Reports of 2019 and 2021 shows that there is an increase of only 31 sq. km. and 1,509 sq. km. in the forest cover inside and outside RFA respectively (FSI, 2021).

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The forest cover of the hill districts has been separately measured and calculated since the National Forest Policy of 1988 has placed special emphasis on increasing the forest cover in the hill regions by 2/3rd of their total geographical areas for preventing landslides, soil erosion, and other calamities. Hill districts are considered as those which are situated at an altitude of more than 500 m. from the mean sea level and for the Report those hill districts are selected where the hill *talukas* exceed 50% of the total geographical area. There are 140 hill districts recorded with 2,83,104 sq. km. of total forest cover which has decreased by 902 sq. km. in the forest cover compared to the forest cover recorded during 2019 (FSI, 2021).

The Forest Survey of India (FSI) has also reported on the forest cover in the tribal districts of India under the Integrated Tribal Development Programme (ITDP) of the Government of India (GOI). There are in total 216 tribal districts in 26 States/UTs in India as designated by ITDP. The total area of forest cover outside RFA in the tribal districts is 1,07,793 sq. km. and inside RFA is 3,92,106 sq. km. but the entire area has shown a decrease of 55 sq. km. of forest cover compared to the reports of 2019 (FSI, 2021).

The North-Eastern Region of India consists of 8 North-Eastern States² which amounts to a total area of 1,69,521 sq. km. under forest cover. This region is significant because it has the highest area of forest cover and has more than the target of forest cover aimed for achieved by the National Forest Policy 1988. However, it is known for high practices of shifting cultivation which ultimately influences the existing forest cover. The region has recorded a total area of 1,69,521 sq. km. under forest cover but in comparison to the 2019 report, it has shown a decrease of 1,020 sq. km. of total forest area (Saikia, 2011).

The FSI has also assessed the country's Mangroves³ by classifying the existing Mangroves into three categories that include Very Dense Mangroves with a

² The eight states are: Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura and Sikkim.

³ "Mangroves are salt tolerant plant communities found in tropical and sub-tropical regions of the world. Such areas are characterized by high rainfall (between 1,000 – 3,000 mm) and temperature ranging from 26°C to 35°C. These species exhibit a variety of adaptations in morphology, anatomy, and physiology to survive in waterlogged soils, high salinity and frequent cyclonic storms and tidal surges. Mangroves are important refugees of coastal biodiversity and act as bio-shields against extreme climate events. Large populations, primarily rural, depend on Mangroves ecosystem for a wide variety of biomass dependent livelihoods." Extracted from FSI 2021.

canopy density above 70%, Moderately Dense Mangroves with a canopy density of more than 40% but less than 70%, and Open Categories with canopy density above 10% but less than 40%. The first assessment of Mangroves in India was done in 1987. The status of Mangroves in India from 1987 to 1999 can be depicted in the following table:

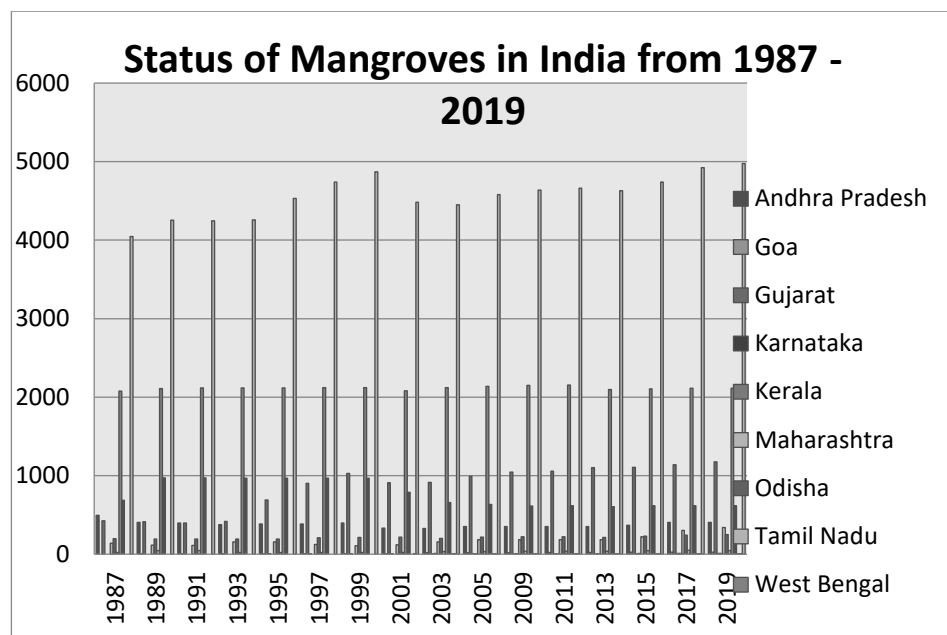


Figure 2.2: Status of Mangroves in sq. km. in India from 1987 to 2019 (FSI, 2021).

The 2021 assessment revealed that the Mangroves cover an area of 4,992 sq. km. which amounts to 0.15% of the total geographical area of the country. The category-wise distribution of Mangroves in India can be depicted in the following table:

State/UTs	Very Dense Mangrove	Moderately Dense Mangrove	Open Mangrove	Total	Change with respect to ISFR 2019
Andhra Pradesh	0	213	192	405	1
Goa	0	21	6	27	1
Gujarat	0	169	1,006	1,175	-2

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Karnataka	0	2	11	13	3
Kerala	0	5	4	9	0
Maharashtra	0	90	234	324	4
Odisha	81	94	84	259	8
Tamil Nadu	1	27	17	45	0
West Bengal	994	692	428	2,114	2
A & N Islands	999	168	49	616	0
Daman & Diu	0	0	3	3	0
Puducherry	0	0	2	2	0
Total	1,475	1,481	2,036	4,992	17

Table 2.1: Status of Mangroves in sq. km. under different categories in India as per 2021 Assessment (FSI, 2021)

It seems from the above status that there has been a slight increase in the Mangrove cover in India as found in the 2021 assessment compared to the previous assessments.

The Report of 2021 has also assessed the number of trees outside forests (TOF). Generally, the area of forest cover is measured through remote sensing where areas of more than 1 hectare are considered with tree canopy density of more than 10%. However, there are a huge number of trees even outside those areas which amount to less than 1 hectare of area or are standing in isolation in small patches including village outskirts, or even urban cities. The tree cover is divided into two categories which are related to each other, *viz.*- trees outside forests (TOF) and tree cover. TOF refers to all trees outside the Reserved Forests (RF) irrespective of the size of their patches while tree cover refers to isolated trees as well as patches of trees outside the RF areas and the areas are less than 1 hectare in size. Thus, tree cover is a subset of TOF. The total tree cover of India extends up to 95,748 sq. km. and an increase of 721 sq. km. of the area under tree cover has been witnessed compared to the 2019 assessment. The extent of TOF is 28.29 million hectares which amounts to 36.18% of the total forest cover. Over the last five years of assessment, it has been found that the tree cover of the country has increased from 90,844 sq. km. in 2011 to 95,748 sq. km. in 2021

amounting to an increase of 4,904 sq. km. The carbon stock of forests in India has also been assessed where it was found that there is an increase of 79.4 million of carbon stocks compared to the previous assessment (FSI, 2021).

3.1.2. Biodiversity

India has a huge stock of biodiversity (BD) which makes it one of the world's mega biodiversity nations. India occupies only 2.4% of the land area but is home to 7.8% of the world's recorded species including 45,000 species of plants and 91,000 species of animals. India has also developed a biogeographic classification⁴ for planning conservation and has also identified biodiversity-rich areas (MoEF, 2014).

Four of the 34 BD hotspots⁵ on the planet—the Himalayas, the Western Ghats, the Northeast, and the Nicobar Islands—are located in India. 39 sites in the States of Kerala, Karnataka, Tamil Nadu, and Maharashtra were inscribed on the UNESCO World Heritage List in 2012 because of the remarkable universal values and extraordinarily high levels of endemism in the Western Ghats (UNESCO, 2012). Lichen species, one of nature's most spectacular alliances, are abundant in India; at least 2300 species, representing 305 genera and 74 families, have been recorded there. India's marine floral biodiversity is astounding, with over 200 diatom species, 90 *dinoflagellates*, 844 marine algae, and 39 mangrove species. In India, endemism is significant among several plant species. India is home to 4045 flowering plant species (angiosperms), which are divided among 141 genera and 47 families. India ranks 10th globally in terms of endemism of vertebrate groups for birds with 69 species, sixth with 156 species of reptiles, and seventh with 110 species of amphibians (MoEF, 2014).

India is home to 15 agro-climatic zones and is the origin of many cultivated plants. It is regarded as the main location of the origin of rice. There have been

⁴ “India is amongst the few countries that have developed a biogeographic classification based on which conservation planning has been taken up. This has been done to ensure that different biogeographic zones are represented in area based conservation approaches at the landscape level. This classification uses four levels of planning units: the biogeographic zone, the biotic province, the land region and the biome.”

⁵ “The idea of hotspots was first mooted in 1988 by ecologist Norman Myers, who defined a hotspot as an area of exceptional plant, animal and microbe wealth that is under threat. The key criteria for determining a hotspot are endemism (the presence of species found nowhere else on earth) and degree of threat.”

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811 cultivated plants and 902 of their wild cousins so far identified. Additionally, India is home to a sizable and diverse collection of farm animals, including a variety of local breeds of cattle (34), buffaloes (12), goats (21), sheep (39), and chickens (39). (15) Numerous ancient farming methods and systems found in various regions of India help ensure the food security of the country's hundreds of millions of residents. In addition to being a significant sub-sector of Indian agriculture, the livestock industry also contributes significantly to the Indian economy. Six National Bureaus dealing with the genetic resources of plants, animals, insects, microbes, fish, and soil sciences have been formed in India.⁶

IUCN has listed 1,212 species of animals in its Red List out of which 12% of the species are designated as endangered species. These endangered species consist of 69 mammals, 23 reptiles, and 56 amphibians. India has lost around 90% of the area from the 4 biodiversity hotspots according to the State of India's Environment in Figures 2021 report of the Centre for Science and Environment (CSE). The report further revealed that the Indo-Burma hotspot has been severely affected where it has lost vegetation from 25.73 sq. km. to 1.18 sq. km. which amounts to a loss of 95% of the vegetation. It says that 25 species in that region have already faced extinction (Dhawan, n.d.).

However, India has also made significant progress as per BD conservation is concerned. Recently MoEF&CC has highlighted how India has contributed to such progress. It revealed that the size of Protected Areas (PAs) has increased from 4.90% in 2014 to 5.03% in 2021. It has also been reported that the attention of the ministry has now shifted towards the conservation of dolphins, elephants, and lions in the year 2021 besides focusing on tigers for several years. The project

⁶ “These include the National Bureau of Agriculturally Important Microorganisms (NBAIM), which has a repository of 4668 cultures, the National Bureau of Plant Genetic Resources (NBPGR), which has a total of 4,08,186 plant genetic resource accessions; the National Bureau of Animal Genetic Resources (NBAGR), which has a total holding of 1,23,483 frozen semen doses from 276 breeding males representing 38 breeds of cattle, buffalo, sheep, goat, camel, yak, and horse for ex situ conservation; the National Bureau of Agriculturally Important Microorganisms (NBAIM), with a repository of 4668 cultures, including 4644 indigenous and 24 exotic accessions; and the National Bureau of Agriculturally Important Insects (NBAIL), with 593 insect germplasm holdings. The National Bureau of Fish Genetic Resources (NBFGR), with a repository of 2553 native finfishes and Fish Barcode Information System were updated with 2570 microsatellite sequences. In terms of fish diversity, the Zoological Survey of India (ZSI) has also recorded 3022 species in India, constituting about 9.4% of the known fish species of the world.”

lions and the project dolphins have been initiated and their associated environmental impacts have also been strengthened in the major sanctuaries and forest areas. It further claimed that the population of tigers, Asiatic elephants, one-horned rhinoceros, etc. has also increased over the years along with aggressively monitoring wildlife health to curb zoonotic diseases. India has also focused on the conservation of migratory birds whereby India has adopted a leadership role in addressing issues related to such migratory birds with the Central Asian Flyway (CAF) range countries in a 2 days workshop held in October 2021. It was also reported that the number of Ramsar sites in India has increased to 47 covering an area of about 10,90,230 hectares where 21 new sites were designated during 2019-21. In addition to all these, India has also developed around 10 beaches in several states and in one UT as per international standards and conferred with the prestigious Blue Flag Certification for its ecologically sustainable infrastructure and environmentally sound management with necessary safety measures. The ministry added that:

“This has resulted in better waste management, maintaining bathing water quality, self-sustaining solar energy-based infrastructure, containing marine littering, enhancing local level livelihood options and increased tourist-based economy.” (IANS, n.d.)

3.1.3. Functions of Forests in India

India being an agriculturist nation, forests occupy a lot of significance for the nation. It was revealed in the 10th five-year plan that forests satisfy around 40% of the nation's energy needs and 30% demand for fodder. The contribution of forest income is increasing over the years where it contributed 0.86% to the GDP in 1970-71 which increased to 1.8% from 1990 to 91. While these estimates do not cover income from ecosystem services that forests provide generally. However, it was reported that forests contribute around 2.9% to the adjusted Net Domestic Products of the nation. The forests of India provide fodder for around 58 million buffaloes, 179 million cattle, and 120 million other livestock. Forests also employ more than a million of the population in India. They serve as homelands to a large section of the tribal population who has become part and parcel of the forest environment. India consists of roughly 5,000 species of wood out of which around 500 species are commercially important species that are used in many ways including to extract acetic acid, acetone, etc. along with many other valuable drugs. Besides these contributions, Indian timber contributed to around 179 crores of Indian Rupees in 1974-75. It is also reported that revenue

generated from minor produce is around 50 crores per year (Songita, n.d.). In India as far as biomass stock is concerned, above-ground biomass amounts to 68.70 tonnes per hectare; below-ground level biomass amounts to 21.52 tonnes per hectare, and biomass from dead wood amounts to 0.86 tonnes per hectare in 2020 (FAO, 2020). As per carbon stock is concerned it has been reported that in 2020, carbon in above-ground mass amounts up to 31.60, carbon in below-ground mass up to 9.90, carbon in dead wood up to 0.40, carbon in litter up to 1.90, and soil carbon up to 56.20 tonnes per hectare respectively.

The facts above are an indication that the forests of India have multiple functions including productive, protective, carbon-resilience, etc. whereby they are home to a large amount of biodiversity, and provide employment and livelihood means to human population dependent on forests either directly or indirectly, supplies raw materials to industries, generates revenue contributing to GDP, work as Biomass stocks and above all function as carbon sink addressing climate change related issues.

2.2. Forest Profile of Assam

Assam has a significant portion of forests with a multiple diversity of functions. This section, therefore, analyzes the nature of the forests of Assam.

2.2.1. Geography

Assam has a total forest cover of 1,853 thousand hectares which amounts to 23.62% of the total geographical area of the state (FSI, 2021). Out of the total forest cover, only 3.85% is VDF, 12.75% is MDF and 19.50% is OF. The forest covers inside and outside recorded forest in Green Wash is depicted below:

(in sq. km.)

Forest Cover Inside the Recorded Forest Area				Forest Cover Outside the Recorded Forest Area			
VDF	MDF	OF	Total	VDF	MDF	OF	Total
2,748	8,566	8,689	20,003	269	1,425	6,165	8,309
13.74%	42.82%	43.44%		3.24%	17.15%	79.61%	

Table 2.2: Forest Cover Inside and Outside Recorded Forest Area

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The Forest Cover Change Matrix of Assam is shown in the following table:

(in sq. km.)

Class	2021 Assessment					Total ISFR 2019
	VDF	MDF	OF	Scrub	NF	
VDF	2,770	12	2	0	11	2,795
MDF	247	9,948	14	1	69	10,279
OF	0	8	14,869	32	344	15,253
Scrub	0	0	7	160	6	173
Non-Forest	0	23	412	35	49,468	49,938
Total 2021	ISFR 3,017	9,991	15,304	228	49,998	78,438
Net Change	222	-288	51	55	-40	

Table 2.3: Forest Cover Change Matrix of Assam

The above fact shows that there is a decrease in the forest cover in the categories of NF and MDF by 40 and 228 sq. km. respectively in 2021 while in the other categories, it has increased compared to 2019.

The extent of Trees outside Forests (TOF) in Assam is 9.939 sq. km. The growing stock in RFA is 112.68 m. cum. and in TOF is 23.94 m. cum. where the amount in RFA has decreased by 2.72 and in TOF increased by 0.98 in 2021 as compared to the 2019 assessment. The carbon stock in Assam in different pools is shown below:

(in '000 tonnes)

Carbon Pools	Forest Carbon
AGB	87,070
BGB	21,495

Dead Wood	1,875
Litter	4,890
SOC	1,56,042
Total	2,71,372

Table 2.4: Forest Carbon in Assam in Different Pools

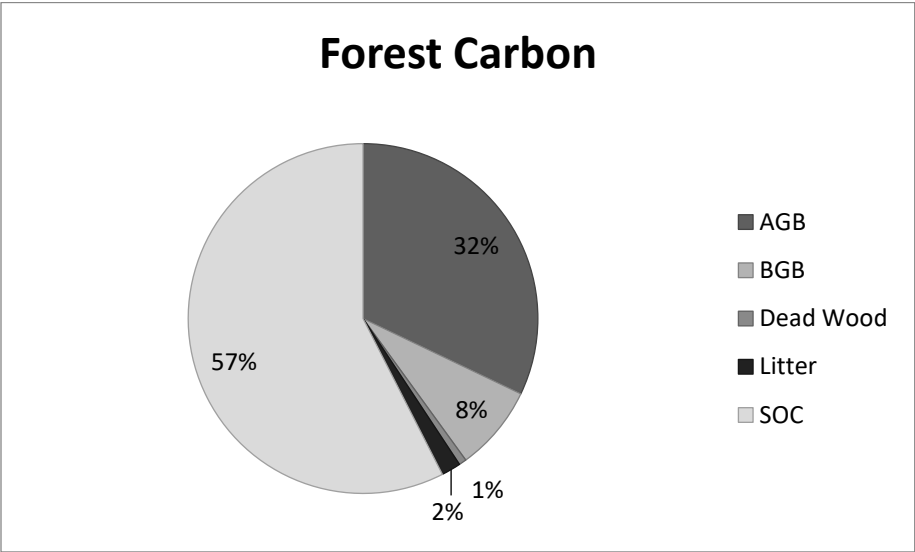


Figure 2.3: Share of Forest Carbon in Assam in Different Pools in Percentage

2.2.2. Biodiversity

In Assam, the abundant growth of a variety of species is possible due to the hot and humid climate along with heterogeneous physiography. It is also known for its suitability for the growth of commercial plants like- Banana, Sisyphus, Tea, and so on. This is the reason that made scholars comment on Assam as the ‘Biological Gateway of North-east India’.

The frequency of different species and their origination vary from forest to forest, however, the common ones are- *Aesculus* species (*Ramanbih*), *Albizia* species (*Koroi*, *Siris*, and *Sau*), *Duabanga Grandiflora* (*Khakan*), *Actinodaphne obovata* (*Petarichawa*), *Artocarpus Chama* (*Sam*), *Dilenia* species (*Qu-tenga*), *Magnolia* species (*Pansopa*, *Gahorisopa*, *Phulsopa*, *Kathalsopa*, *Kharikasopa*, and

Duleesopa), etc. 293 species of orchids are found in Assam which is a distinct group of flowering plants that requires very microclimatic conditions for their growth and exhibit a wide range of habitats. Bamboos constitute an important source of BR and *Bambusa Jaintiana* and *Melocanna* species of bamboos are found only in Assam. Assam is also home to 14 species of cane and 962 recorded species of medicinal plants. *Deepor Beel* in *Kamrup* District has been provided the status of Ramsar Wetland. Assam also contains 165 species of Endemic Flora. Besides all these varieties of species, Assam also consists of many mammals, reptiles, birds, faunal, and other different varieties of species. However, the IUCN has recognized 284 species of plants as critically endangered 149 species are already endangered 58 species as vulnerable, and 13 as threatened including many other species on the list of rare and endangered list of species (Goswami, 2018).

2.2.3. Functions of Forests in Assam

In Assam too like the rest of India, forests possess a variety of functions including ecological, economic, and socio-cultural functions. In the ecological aspect, the forests of Assam provide shelter to a diversity of species supporting the natural ecosystem. They also perform as carbon sinks and they possess a carbon stock of around 2,71,372 thousand tonnes. In the economic aspect, the forests supply many resources including minerals, sand, and other forest produce. Bamboo is an important commercially viable forest produce and 10,659 sq. km. of area inside RFA is covered with bamboo and the total number of culms amounts to 5,656 million. The major NTFP found in the forests of Assam includes 41.64% of *shorea robusta*, 11.83% of *bombax spp./bombax ceiba*, 11.10% of *terminalia belerica*, 8.65% of *pipper spp./piper longum/piper mullesua*, and 6.92% of *smilax china*. Assam supplies raw materials to forest-based industries not only within the state but also in other states. The PA network including national parks, wildlife sanctuaries, Tiger, Elephant, and Bird Reserves, etc. amounts to huge revenue to the Assam Tourism Industry. The local forest dwellers residing in Fringe or Forest villages are highly dependent on forest produce and such produce constitutes their basic livelihood needs. As per the 2019 Forest Survey Report, 14,10,975 tonnes of fuel wood, 1,17,12,057 tonnes of fodder, 14,437 tonnes of bamboo, and 32,972 cum of small timbers were estimated to be used by such local peoples (Forest Matters, 2017).

2.3. Observation

The forest profiles of both India and Assam separately suggest the significance of this research. It is evident that forests possess a significant number of functions including the supply of necessities to the forest-dependent communities. In addition, forests are also important to mitigate global issues of food shortage and climate change. Thus, a conflict between the conservation of forest resources and the livelihood demands of the traditional forest dwellers emerges. It is also observed that although forest cover has increased, this increase is due to an increase in planted forests rather than naturally regenerated forests both in Assam and in India. Thus, such an increase might not reflect the true picture of the health of the ecosystem.

Chapter III

Legislative Framework on Human Rights of Forest Dwellers and Management of Forests

2.1. Introduction

India attained independence on August 15, 1947, and since then India has its own Constitution. As a sovereign power, India derives the law-making powers for its territory from the Constitution itself (Sonwami, 2016). However, India also respects various obligations under international treaties and ratifies them through its domestic legislation on issues that are common to global and local interests (Article 51, 1950). In India, environmental jurisprudence emerged mainly on the lines of obligations accepted under international treaties (Ramakrishna, 1985) and for the rights of the native population, it has shown maximum adherence to the principles adopted by the international human-rights treaties. As a result, there is no doubt that the international legal framework has a significant impact on the domestic laws of India, even though India is not obligated to adhere to any international regulations as such. Thus, for protecting the human rights of the forest dwellers and also the forests from such forest dwellers, it is obvious that most of the global human rights principles, as well as principles on sustainable forestry, will be reflected in the Indian laws and policies besides having its own legal framework addressing issues that are unique to the Indian subcontinent. The chapter examines the major Indian laws aimed at safeguarding and exploiting wooded areas and land. The legislation that defined the rights of the inhabitants over forest resources is included in it. This chapter aims to understand the level of effectiveness they intend to achieve in the management of forests and the allocation of local community rights, as required, involving the communities in forest management without compromising their rights and the forest's health.

2.2. Historical Overview

Before the advent of British Colonial Rule, there was no uniform pattern of forest management across India. There are only a few illustrations of such patterns from the pre-colonial era collected from reviewed literature. The changes in the pattern of management that took place over the years will be explained in this

section. This section is divided into three phases: pre-colonial, colonial, and post-colonial.

2.2.1. The Pre-Colonial Phase

Human civilization in the Indian subcontinent developed along riverbanks and in dense forests. Around 2000 BC, cultivation spread in the Gangetic Basin and the Peninsula, leading to extensive forest clearance. Early Vedic texts reflect a fear of forest animals and a reverence for the forest goddess Aranyani. Agni, the fire god, was believed to clear forests for agriculture. Shifting cultivation, or slash-and-burn, was common, and forests also served as spiritual retreats for Brahmanical priests and ascetics (Habib, 2010).

Bana's seventh-century accounts describe the use of forest resources and the presence of wild animals. The Arthashastra highlights forests' economic importance, including bamboo, reeds, medicinal plants, and elephants, which were highly valued. Ancient Indian texts often depicted animals in religious contexts, with gods controlling natural forces and animal sacrifices being part of religious practices. However, later Ahimsa, or non-violence, became prominent in Jainism and Buddhism, influencing Brahmanical texts. Manusmriti and Arthashastra emphasized the protection of forests and animals, and Ashoka's edicts prohibited unnecessary forest burning and hunting (Habib, 2010).

During the Mughal period, forests were significant for their resources, including valuable timbers, animal skins, and elephants. Tribes often sought refuge in forests, and extensive deforestation occurred for cultivation. The Mughal economy heavily relied on forest resources.

While the history of tribal people as aboriginals is debated, with some suggesting they built the Indus Valley Civilization. Tribals were subjugated by Aryans and other invaders, leading to their assimilation into lower castes. Sanskritization and Hinduization processes elevated some tribal chiefs, while others faced invasions and conversions during Muslim rule and the Bhakti Movement. The economic base of tribals expanded under the Zamindari system and colonial administration, but they lost much of their traditional autonomy.

2.2.2. The Colonial Phase

During the British invasion of India, forests were primarily managed by tribal communities. However, British rule led to widespread deforestation for revenue

generation through agricultural expansion and timber extraction, especially for the shipbuilding industry. The British faced challenges in asserting ownership over forests, as these were traditionally owned and used by local communities (Shastri, 2005).

To establish control, the British enacted several laws, starting with the Acts of 1865 and 1878, under the guidance of D. Brandis, the first Inspector General of Forests. These laws centralized forest management and recognized the legal rights and duties of Forest Departments, balancing state control with some customary rights for forest dwellers. The 1878 Act categorized forests into Reserved and Protected, though it faced criticism for its shortcomings, leading to further reforms (Saikia, 2011).

By 1891, new classifications and regulations were introduced, creating Reserved, Village, and Unclassed State Forests, tightening state supervision, and curtailing traditional practices like shifting cultivation. The Indian Forest Act of 1927 further consolidated state control, limiting local rights and imposing restrictions to protect forest resources for industrial needs (Saikia, 2011).

British forest policy also commercialized forest resources and subjugated tribal populations, who relied heavily on forests for their livelihood. This exploitation, alongside missionary activities, led to tribal discontent and movements such as the Kherwar, Birsa Munda, and Bastar uprisings, protesting against the alienation of their traditional rights and exploitation by landlords and the state. The British also introduced a classification system for tribal populations, evolving from 'Forest Tribes' in the 1891 Census to 'Backward Tribes' in the Government of India Act of 1935. These classifications influenced subsequent legal and administrative policies affecting tribal communities.

3.2.3. The Post-Colonial Phase

After independence, India's National Forest Policy of 1952 continued the imperial focus on forest commercialization but faced new market challenges due to partition. The policy emphasized balanced land use, forest governance, reforestation, soil conservation, communication, and technology. Soil erosion prevention and maintaining minimum forest cover were primary concerns, leading to the Product Forestry Programme and soil erosion reduction initiatives.

Up until the 1970s, commercialization dominated the forestry agenda. However, the Wildlife Protection Act of 1972 marked a shift towards conservation, creating

Wildlife Sanctuaries and National Parks. The 42nd Amendment in 1976 transferred forest management from state to central control, culminating in the Forest Conservation Act of 1980, which restricted forest encroachments post-1980 and regulated pre-1980 encroachments.

The 1988 policy introduced community participation through Joint Forest Management (JFM), (Kallur, 2002) reinforced by government resolutions in 1990 and 2002, laying the foundation for Sustainable Forest Management (SFM) (Forest Policy and Legislative Framework, n.d.). The Biological Diversity Act of 2002 aimed to conserve biodiversity and protect traditional knowledge, influenced by international environmental commitments.

The Forest Rights Act of 2006 addressed historical injustices against forest dwellers, reflecting a shift in forestry jurisprudence (Forests Rights Act, 2006, n.d.). India recognized the rights of tribal communities through its Constitution, granting special protections and designating Scheduled Areas for tribal administration in Schedules V and VI (II Provisions Relating to STs, n.d.).

2.3. Ownership Rights over Forests in India

In India, forests are designated into four categories based on their management objectives. Nonetheless, in India, the FRA's categorization of scrub—or other forested areas—is seen as meaningless. The four categories are: Production Forests: managed to supply timber to meet national timber requirements; Social Forests: managed to satisfy LC demands; Protection Forests: managed for biological stabilities; and Protected Areas: managed as PAs through national parks, sanctuaries, reserves, etc. for conservation purposes. India has designated 7 categories of management objectives under which the proportion of forests are shown in the following table:

FRA 2020 Categories	Forest Area (1000 ha)				
	1990	2000	2010	2015	2020
Production (a)	16,260.00	17,189.00	17,673.00	18,012.00	18,351.00
Protection of soil and water (b)	10,000.00	10,572.00	10,869.00	11,078.00	11,286.00

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Conservation of biodiversity (c)	12,740.00	13,029.00	16,122.00	16,197.00	16,218.00
Social services (d)	0.00	0.00	0.00	0.00	0.00
Multiple uses (e)	24,938.00	26,802.00	24,832.00	25,541.00	26,305.00
Other (f)	0.00	0.00	0.00	0.00	0.00
Non/Unknown (g)	0.00	0.00	0.00	0.00	0.00
Total forest area	63,938.00	67,591.00	69,496.00	70,828.00	72,160.00

Table 3.1: Distribution of Forest Area as per Designated Management Objectives (Food and Agriculture Organization, 2020).

According to reports, the total quantity of forest covered by the long-term management plan is 52,952,000 hectares, of which 14,001,000 hectares are in PAs as of 2020. Regarding forest ownership in India, 57,747,000 hectares of forest area remain in public possession till 2020, while 13,081,000 hectares of forest area are under private ownership. The public administration holds rights over 32,998,000 hectares while the local, tribal, and indigenous communities hold rights over 24,759,000 hectares of forest area till 2020. But note that the forest area that local, tribal, and indigenous communities hold rights over is also covered by Joint Forest Management (JFM), an initiative that involves the government and LCs working together to improve the livelihoods of the communities that depend on the forest and restore its health. This implies that there are no absolute rights for those communities. The Joint Financial Monitoring Program was established in 1990, and the records offered date from 2010 and are carried over to 2020 (Food and Agriculture Organization, 2020).

Thus, as far as management is concerned, the State is the biggest stakeholder and there exist no absolute community rights of ownership in India as per the FRA Report of 2020. Thereby, it can be argued that LCs have a very minimal role to share in the management of forests in India.

2.4. An Assessment of the Contemporary Regulatory and Institutional Framework on Forests

Private property and state property are the two main categories of property regimes in India. The majority of forests and grasslands are owned by the state. The revenue department oversees the revenue lands, while FD mostly manages these forests. The resources found in the forests are "assumed commons" in this scenario, but they are not actually CPR. The JFM was initiated for encouraging community participation in the management of forests and it created a new form of property regime called 'Contractual Property Regime' where agreements between FD and LCs were entered forming Van Suraksha Samitis (VSS) for managing forests sustainably. Except in situations where LCs have affirmed their rights without secured tenures, state-owned forests have, nevertheless, primarily become open-access resources. These LCs typically organize into inferior villages, and they have complex administration structures. Further, the land reform policies in India provide for every village to have CPRs in the form of forests, grazing grounds, ponds, etc. But it is alleged that CPRs in India have degraded significantly due to the government land rehabilitation policies that distributed a large portion of such CPRs to the landless, improper management, encroachments under the influence of the rural rich (Ali, 265-268), influences of privatization, and decentralization patterns of the government (Singh S. , 2012). These changes led to the breakdown of the traditional CPR under the LCs' management institutions and have paved the way for new institutions.

Privatization of CPRs started during the colonial phase and after independence the State started intervening in the management of such CPRs through institutions like *Panchayati Raj* marginalizing the LCs. On these CPRs, the State has supported mining operations, which has once more had a detrimental effect on the LCs. Although the representation of SC/ST in political discourse has been secured by the legal regime in the *Panchayats*, such representation is just a token making their participation significantly immaterial against the non-tribals. The *Adivasis* and other marginalized sections are unable to contest elections due to lack of funds and they even could not contest without support from a political party. The commissions established under Articles 338 and 338A are only able to offer advise; they do not have any executive authority (Expert Group to Planning Commission, 20019). Further globalization has made large-scale commodification and commercialization of land and the land market is opened

through acquisition, lease, and sale for mining, contractual farming, infrastructural development, industrialization, etc. The State structures the legal regime in a manner that serves such purposes in the name of public interest. For example, a private individual purchased a 22-kilometer section of the *Sheonath* River from the State of Chhattisgarh. In a same manner, the Forest Commission abates the forest inhabitants in order to appropriate forest lands for the States to commercialize. To achieve these ends, even the land transfer policies have been twisted. For example, the definition of "landless" has changed from meaning "persons with less than two decimals of land" to meaning "no male member of a family should owe two decimals of land." This change has removed a large portion of the landless population, who are not at fault. Furthermore, multinational businesses have the ability to abuse the notion of community ownership by directly negotiating with communities to get ownership over resources, rendering even the state meaningless. The State has permitted massive privatization even on agricultural and tribal lands. It is criticized that in India land is commercially valued rather than considering the value it possesses for the LCs (Land, 2002). The phrase "where there is bauxite there is spring" is a better example in Orissa.

In India, the forests are managed by the State based on the public trust doctrine where the citizens are the ultimate beneficiaries and the government is expected to hold such property as a trustee of the public in its sovereign capacity. The sad thing about the situation is that the State has taken significantly more resources than was anticipated. This led the communities in many parts of the country to take control of their resources to protect and use them for their own benefit. While the State realizing the impossibility of managing such resources alone initiated a two-fold approach where at one side a participatory approach in the form of JFM was adopted but at the other side a contradictory approach of privatizing the wastelands that were once used by the LCs as commons was initiated. All these factors led to conflicts between the State and the LCs and in many cases where the state governments are weak, LCs have rejected the state's claim over the resources and asserted their own control heating political debates and negotiations (Singh S. , 2012). These developments have also made the legal protections provided to the aboriginals invalid along with other material defects.

Schedule V of the Constitution gave the tribes numerous protections for safeguarding their rights, but in practice, these protections had less effect. In certain conditions, TACs are not created at all, and in most cases, they are non-

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functioning. Even the process of declaring Scheduled Areas has been pending for many decades. The bureaucrats had little consideration for securing the land rights of the tribals. The Naxalites are a better example highlighting tribal agitations against such failures. The TSP launched by Indira Gandhi also failed because the fund rarely reached the actual beneficiaries at the state level. The 73rd and 74th Amendments to the Constitution were likewise unsuccessful for a number of reasons, most notably the length of time it took to pass meaningful legislation. Many years ago, the Bhuria Committee suggested that *Gram Sabhas* be given considerable autonomy in the decision-making process regarding the management of natural resources through proper legislation. However, for years, these suggestions were ignored. The PESA however became an earmarked legislation that favoured decentralization but it did not give any real powers to the *Panchayats* and the *Gram Sabhas* since they are not eligible to collect taxes that limit their autonomous character (Panchayat (Extension to Scheduled Areas) Act, 1996).

Furthermore, when it comes to Panchayat elections, the State Election Commission's (SEC) authority varies throughout states. The State has even employed cunning strategies to get around PESA and take advantage of the riches in the tribal areas. The State apparatus frequently views the tribes as lower animals in need of civilization to the right and wrong. Additionally, the tribal population outside of the Scheduled Areas is not recognized by PESA. Furthermore, although they essentially function independently, the MoTA and the Ministry of Panchayati Raj are also in charge of PESA implementation. Laws that grant *Panchayats* greater authority than *Gram Sabhas* have been passed in several states, including Madhya Pradesh and Chhattisgarh. This is blatantly against Section 4(n) of the PESA. Research from Orissa highlighted the fact how private companies use to create division between tribals by providing bribes for initiating mining projects over their lands. Further, the tribals also suffer threats from Maoist rebels. The State has never intervened in their matters and the agencies merely remain at the side of the illegal encroachers into their lands. Even in areas with forests, where the first claim to resources is held by the forest inhabitants, such circumstances do occur. But in Orissa, it was reported that bureaucrats and FDs colluded with industrialists for the diversion of forest lands without the Centre's approval. Many industries like Utkal Forest Products have been given collection rights of NTFPs since liberalization in 1990. But if tribal people go for trading of such NTFPs then they are banned by the FDs, for instance Bayagada a group of tribal women which was registered as a society was

prohibited from selling biomass on the grounds of lack of proper license. While mining leases were allotted to Orient Cements in an *Adivasi* district of Andhra Pradesh by the State without the *Gram Sabha's* consent and proposals were made in *Chintapalli* for bauxite mining (Panchayat (Extension to Scheduled Areas) Act, 1996).

The Fifth Schedule of the Constitution and PESA have both failed to stop big businesses from taking resources from Tribal territories and making them wealthy from mineral extraction; instead, the Tribals have to forfeit numerous shared resources to the state and the settlers. A study revealed a close nexus between traditionally influential landowners and corrupt state officials in the northern part of Uttar Pradesh whereby the officials transferred tribal lands to landowners over which the tribal communities might have valid claims. In Jharkhand, tribal people were treated like aliens in their own area. Tribal movements calling for independent statehood, such as the Kamatapur revolt in Bengal, have become more prevalent as a result of these events. Further, the legislative framework on reinforcing community institutions disregarded the traditional unique institutions. E.g. PESA stipulated community as the basic unit of governance but in Orissa, the Gram Panchayat (Amendment) Act of 1997 conferred such authority on the larger *Gram Sabha* consisting of all communities within a demarcated territory. These cases have ignored many socio-cultural customs and preferences that exist among various communities within a given region. The Dhebar Commission viewed the Fifth Schedule as a stopgap measure until the indigenous people were integrated into the mainstream of civilization and opposed the establishment of new Scheduled Areas. The policy followed this suggested practice of assimilation but later realized that it was inefficient, however by the time it was realized significant damage was already done. Moreover, the later policies also granted self-governance as a privilege to the tribals rather than recognizing it as an inherent right (Kurup, 2008).

The right to property for the tribals is not a fundamental right but a mere legal right that allows the state to acquire their property by establishing that such acquisition is by law and reasonable compensation has been provided. The tribes are more at risk from acquisitions done in the public interest because they have the burden of proving that a recognized legal claim to property has been infringed. Further, the Supreme Court held that it is the government who shall judge whether the acquisition is made for the public interest or not and declared the Land Acquisition Act to be a complete code. Further, the maximum

protection provided under PESA is that any such acquisition shall be made with the consent of the LCs but the procedures lack clarity which even weakens the provisions of PESA because the Court emphasizes on the public interest. Additionally, the administration is not very concerned about wasting time and resources to make sure that PESA compliance goes beyond the bare minimum. The nature of rights to land secured by PESA has become a source of discord between the executive and the judicial branches of the state, an example of which is the Samatha judgement. Moreover, although PESA makes the tribal communities owners of minor forest produce, the capacity to use such resources depends on the State's determination that the forests near such communities are village forests and not reserve forests. Although these limitations are in place, PESA did not offer any rules outlining how the State will safeguard the rights of the forest dwellers. Moreover, the centuries-old indigenous authority was eliminated in non-tribal villages under Part IX of the Constitution, which established local government. This shift to an alien system of elective representatives has discouraged many tribal groups from participating in its affairs. e.g. *Lanjia Saoras*, a tribe in Orissa has failed to adjust to this electoral system of government. In the cases of *Gond* and *Bhil* the *Panchayat* system has eroded their traditional councils and hampered the ties within their communities (Kurup, 2008).

Regarding the nature of community under forest laws, Amit Jain and Snriti Das provided a comprehensive definition of the term "forest community," stating that the Indian Brahmanical system and European racial supremacy subjugated the tribal people, treating them as homogeneous, isolated groups within the forests. However, with the rise of the Chipko movement in 1970, the colonial perspectives of forest management for national interests were given a backdoor entry by the neo-traditionalists emphasizing the traditional moral economy determining the nature of the forest community. These neo-traditionalists proposed a binary model of the forest-society relationship that demonstrated the difference between pre-capitalist subsistence-oriented forest community and the bureaucratic and state commercial-urban complex. However, such a static presupposition faced challenges due to the dynamic nature of the community. The critiques of this model argue for a 'new moral economy of the forest' by the State through regulations that serves the purpose of both benefit sharing and reducing deforestation. Rather than the traditional concept of forest economy, it's the regional power and patterns of resource use that influences such a concept. If customary practices of conservation are preferred then customs

become the source for legitimizing the rights of forest communities. The forest communities are formed with specific purposes that are not static but dynamic. Therefore, the social stratification and different imagination on forest communities assume more importance rather than its traditional notions (Jain & Smriti, 2019).

Since economics has been the most frequently discussed topic rather than the characteristics of the forest community, an examination of the Indian legislation about forests reveals that the State's understanding of the forest community is influenced by economic causes rather than sociocultural ones. The WLPA has only referred these communities to tribal members, whereas only NFP 1988 has referred both organizations and socioeconomic groups, including women, tribes, and SCs. The IFA 1927 has taken into account both the cultural and economic aspects of dependency, but NFP 1952 fails to recognize any claim of forest communities over forests. In the JFM even if the character of the community was being formally examined for the first time, the emphasis was placed solely on the economic dependence of the forest communities, which are obligated to comply with the state's transactional relationship with the forest-protecting committees. For the first time, the FRA specifically mentioned the various socioeconomic groupings, such as OTFDs, pastoralists, Primitive Tribal groupings (PTGs), etc. However, it says nothing about the nature of tribal and local power disparities (Jain & Smriti, 2019). The authors categorized the organization's nature as either traditional or modern. The traditional organizations were those that existed before any laws were passed, and when they were, they were mentioned in the documents. For example, the phrase "non-political identity" or "guardians of forests" is used in documents like the JFM Resolution 2002 to denote the traditional identity of forest communities. However, those communal institutions that were established by specific statutes themselves to accomplish their goals are modern. Nevertheless, these regulations emphasize the similar goals of the communities while ignoring their heterogeneity. The NFP 1988 mentions women-led people's movements to reduce pressure on forests in Paragraph 2, and Paragraph 4.6 talks about tribes and forests. Other legal documents highlight the role of village communities and volunteer organizations in restoring degraded forests, as emphasized in JFM Circular 1990, the 2000 Circular requiring village communities to register under the Societies Registration Act 1860, the provision in Section 4(a) of PESA requiring the State legislature to recognize traditional practices of CPR management, the BMC constitution under the BD Act 2002, the FRC under the FRA Amendment Rules 2012, etc. These legal documents

highlight the various aspects that the communities can resemble. To serve their various objectives while taking into account the geographical scales of villages and hamlets, all of these laws have, however, referred to these communities in various ways. However, the use of forests inside villages and the impact of migration and other changes on the demographic profile have not been acknowledged in such legal documents. Furthermore, the communities have received varying recognition, and these distinctions are founded on the difficulties posed by power imbalances inside the groups. The idea of a weaker part is founded more on economic viewpoints than on the cultural and political elements that influence village politics locally. Consequently, by referring, the cultural rights of the forest people are frequently disregarded. Furthermore, these laws have institutionalized the problem of conflict resolution by giving the impression that the bureaucracy can administer the *Gram Sabhas* in a neutral manner. However, they have not included sufficient measures to lessen the power imbalances between the FD and the community, and the problems of elite capture and local power dynamics remain unresolved. Additionally, these policies have given the communities financial rewards for their contributions to raising the productivity of the woods, effectively using the forest communities for economic maximization at the expense of all other characteristics of the forests inside such communities (Jain & Smriti, 2019).

Thus, according to this analysis, the authors defined forest community as

“A socio-economic group or a mix of them, organizing themselves either through traditional or modern institutions, and have a ‘non-political nature’, spatially living in and around the forest, and socio-economically dependent upon the forests for their cultural, bona fide livelihood needs, and other economic interests. By the virtue of this economic and cultural relationship the forest community becomes ‘guardians of the forests’ and conserves biodiversity, wildlife and other forest resources.”

According to this concept, the forest community is extremely immobile and apolitical, and it is utilized by the government as a tool to achieve its goals by exploiting the people's economic necessities while disregarding their traditional values connected to forests (Jain & Smriti, 2019).

Additionally, it was stated that since independence, there has been a 24 million-acre rise in industrial land and a 28 million-acre increase in forest area. How such a growth is conceivable is the question. The third group, known as "wastelands,"

is mostly to blame. The British term for these areas was "untraceable," but the LCs contend that these areas were once communal and were later taken over by the State and turned into private property. By designating these wastelands as protected areas, the state has also curtailed the rights of the forest inhabitants, making certain rights—like gathering NTFPs—a criminal offence.

The forest dwellers' ownership of NTFPs is also not fulfilling their intended function; instead, the companies are becoming more advantageous, and the State is only aware of this by raising its portion of the trade's profits. Due to their status as protected regions, forest lands are primarily off-limits to the LCs, however ecotourism is permitted there. Furthermore, regulations like the WP Act 1072 and other penal codes suppress public protest, turning issues with livelihood into purely law and order issues. According to the Dhebar Commission, the 1952 Policy considered the traditional rights of the tribes as rights and concessions, leading to the denial of those rights, whereas the 1984 Policy treated them as rights and privileges. These measures strengthened the State's control over forests (Partners for Law in Development, 2002).

In addition, the JFM programme was introduced to promote community involvement throughout the country while giving these groups the authority that PESA grants them in Scheduled Areas. Consequently, JFM ought to have addressed PESA-related issues in places where tribal people predominate, but neither the 2000 nor the 2002 guidelines mention PESA. Furthermore, the state's conservation organizations contend that the tribal peoples' land rights in protected forests shouldn't be safeguarded by PESA. Therefore, instead of balancing the powers or eliminating conflicts between local interests and the state, as in Andhra Pradesh, where the state seized possession of over 40,000 acres of forest land, policies like JFM have given the state a new shape over forests.

The people of Gujarat's Sukhomajari hamlet formed an organization to preserve soil and trees after learning that doing so would save their water supplies. They started benefit-sharing programs where poor and widowed women received a free share of water, grass, and fodder. Together, they put an end to the cow grazing in the woodlands, but after 20 years, the FD betrayed their pledge and handed 50% of the land to another village, causing tensions between them. (Partners for Law in Development, 2002) The Supreme Court heard a group of forest-related cases in 1990 and issued decisions for the expulsion of unauthorized encroachment. Following that, the MoEF and the Central Empowered Committee (CEC), whose members saw villagers as the cause of deforestation,

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ordered their deportation. However, the mining inside the forests went on unchecked. MoTA proposed plans for the creation of forest villages through FDAs, but since 2009, the GOI has stopped funding it. To remedy historical injustices against traditional forest dwellers, the Forest Rights Act of 2006 was passed. However, a number of obstacles have made it difficult to put it into practice, such as the ongoing conversion of forest villages into revenue villages, the delayed acknowledgment of community rights claims, the ongoing dispute between JFM and FRA, the non-recognition of habitat rights, etc. A report from 2015 stated that only 1.2% of the nation's potential CFR had been recognized since the FRA was passed in 2006. It is claimed that in this regard, not even the legally binding guidelines of the MoTA have been implemented (Forestcampaign, 2020).

Because FRA only acknowledges STs based on geography, non-STs and STs that are acknowledged in one state but not in another are left unrecognized. Evidence of residency for 75 years before 2005 is required for OTFDs to be recognized. MoTA added these requirements out of concern that a shorter time frame might weaken the Act's provisions. However because many of these communities lack the necessary documentation to demonstrate their long-term residency and because oral testimony is unreliable in court, such a criterion is utterly unworkable. The bureaucrats have also skewed these OTFDs against the STs. They face systemic discrimination since they are frequently viewed as intruders. Although prior to this legislation certain steps were taken to dilute forest dweller's uprisings and civil society movements, they never made any distinction between the tribals and non-tribals. But after its enactment such discriminations have gained legal sanctions (Sharma, 2018).

FRA's implementation is predicated on PESA, yet it overlooked the reality that several States had not yet adopted PESA. Many tribal tribes prefer their own traditional institutions, and the Panchayati system enforced by the PESA is foreign to them. Moreover, non-tribal members of these systems have the ability to influence how the tribal people handle their resources. The FRA has disregarded these factors. The Act grants two different types of rights: the right to property and the right over forest resources. Each household may claim up to four hectares of forest land. However, these clauses run counter to the MoEF Guidelines from 1980, which lacked any mention of such restrictions. The Act gives tribal people land rights, but it also prohibits them from alienating or

transferring such properties, or establishing any charge or mortgage over such lands, even in times of economic distress. As a result, the Act's provisions are subject to *eminent domain*. Conflicts have arisen because of the Act's additional involvement of three government agencies: the Department of Land Revenue, the MoTA, and the MoEF. Its implementation has been hindered by bureaucrats' continued unwillingness to take into account tribal issues as well as the tribal population's lack of knowledge and publicity. Moreover, the majority of indigenous people practice shifting agriculture, which makes it challenging for them to claim their property and obtain titles. In the Wayanad area of Kerala, it was discovered that just 4 families received the maximum 4 hectares of land during the final settlement by the FD, while 76% of people received less than one acre. It was said that the FD's unfavourable attitude was the cause of this. Additional community claims were documented, but, the officials did not receive any directives from the forest personnel. According to studies, these settlements were carried out at the *Panchayat* level although, according to the Act, they ought to have been carried out at the *Gram Sabha* level. Furthermore, although the FRA Rules of 2007 call for the inclusion of women in verification committees, many of these committees are devoid of women, which has left tribal women unaware of their role in the collection of small-scale forest production. According to a report by the Council for Social Development, FD frequently utilized their veto power to deny several applications since they had the upper hand over the choices made by the *Gram Sabhas*. Due to the absence of effective appeal procedures, the tribe members have little choice than to file a claim rejection and await the FD's prompt eviction of the rejected tribe members following the process' conclusion. The enforcement of community rights even became more difficult due to the simultaneous operation of the FC Act 1980 and the WP Act 1972 (Kumar, 2016).

On September 10, 2020, the Union Government established an interministerial committee including MoTA and MoEF&CC to examine the execution of FRA 2006. The committee refuted any significant flaws in the legislation. Experts, however, took issue with the officials' reticence when it came to asking forest residents for their input on matters about their property. It also voiced worries about the MoEF&CC assuming a lead role in matters that belonged solely to the MoTA. Gopalakrishna, a Campaign for Survival and Dignity member, voiced his displeasure with the meeting's conclusion. In addition to taking sole control over forest resources and supporting firms that extract minerals at great ecological cost, he accused the MoEF&CC and the FD of violating the rights of forest

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dwellers. Numerous experts have criticized MoTA for its insignificant contribution to the execution of FRA 2006. Conflicts with JFMCs have also arisen as a result of FRA 2006, as is seen in Orissa, where *Gram Sabhas* voted resolutions to abolish JFMCs, but forest guards are against the resolutions because they believe the programme has had excellent outcomes and needs more study. The National Forest Rights Act Committee (NFRAC) recommended abolishing the JFMCs and giving all of its authority and resources to the *Gram Sabhas* that were established under the Forest Rights Act of 2006. Even the National Advisory Council (NAC) suggested allowing the *Gram Sabhas* to handle CFR administration, with the FD serving as a facilitator in such management. Nonetheless, MoEF&CC emphasized the need to strengthen JFM by focusing on the Green Indian Mission, which calls for changes to the IFA 1927 and Panchayat Acts to grant JFM authority similar to that of forest officers. The mission talks about strengthening the FDs and acknowledges the JFM committees as legitimate bodies under *Gram Sabha* law. It is claimed that by taking this action, the State has taken control over the *Gram Sabhas* in the name of conservation, depriving them of their autonomy and imposing JFM onto them, which they were not required to practice. It was also reported that JFM only gained importance once the World Bank became involved because community involvement was now required in order to receive foreign funding. According to a 2008 study by the Indian Council of Forestry Research and Education in Dehradun, JFM was only ever used as a tool by the State to win community support for achieving specific traditional conservation goals at the expense of labour benefits or concessions. It never attempted to recognize any forest rights of the communities in conjunction with attaining conservation goals in the forest governance. Others contend that JFM (Department of Tribal Affairs, 2009) and FRC should both go on. They think it's hard to apply community rights under FRA and that there aren't enough community forest resources that these communities can acquire ownership over. However, JFM will give them some control over resources that are not part of CFR (DTE Staff, 2011). Therefore, where FRC is possible shall be constituted and JFM shall also be reinforced.

For example, forests were nationalized in 1953, and the Central Government was given the power to decide whether to use forest regions for purposes other than forests by the FC Act of 1980. Nevertheless, the intended objectives of the rules were not achieved because insufficient investments or knowledge transfer were made for SFM. In addition to

the ongoing loss of biological diversity, deforestation, and animal abuse, the LCs flouted these laws and started utilizing forest products for their own survival. Forest rules that followed, including the one from 1952, gave room for the expansion of wood-based businesses, which led to massive deforestation. Nonetheless, the FAO reports that India's forest cover increased significantly between 1990 and 2010. However, the amount of forest cover as reported by SFR is different from the FAO's classification, mostly because FAO does not classify private vegetation and community forests as forests, whereas India views them as such when they are photographed using satellites (Tewari, 2015). The commercial farm forestry contributed to the social forestry program's success, but there were still questions about the long-term viability of the trees planted on village land. Additionally, it did not create and promote the community's rights to those trees or the processes for fairly allocating the benefits (Partners for Law in Development, 2002).

As a result, there were insecurities, intrusions, public indifferences, and productivity issues. In the past, the sole purpose of social forestry was to boost the supply of timber for wood-based industries at no cost or through a heavily subsidized procedure that included a buyback guarantee. Thus, it was claimed that the State had started it in order to secure funds from abroad. According to reports, the World Bank helped the Government of India (GOI) invest about US\$400 million on this project. But the plantation likewise ceased operations as soon as funding was cut off (Khatun, 2013). Even the outcomes of eco-development plans are not equally effective; in certain areas, they have been quite successful, but in other areas, they have been severely unsuccessful because of conceptual flaws, inadequate oversight, and improper distribution of decision-making authority with the LCs (Kothari, 2015).

In addition, there are not enough forest guards or foresters in the FD. Additionally, to extend the forest cover outside of the forest regions and engage in participatory management, the staff must communicate with LCs, but they are unprepared. Additionally, the forest staff's training program is out of date. They feel less responsible for forestry programs because they are not even frequently involved in the decision-making process. Since India's forest governance system was established, the role of forests has undergone tremendous transformation. It is now a worry on a local, national, and international scale. In addition to providing ecosystem services, forests are crucial locally for the egalitarian livelihood that supports the sustenance of the LCs and the sustainable production

of forest products. Globally, forests are significant for the protection of biodiversity and carbon sequestration. These call for FD creativity and community involvement in their administration. However, the FDCs have made little progress in mingling with the native populace. Furthermore, the effectiveness of JFM depends on communication between the FD and the village people; yet, because there are insufficiently skilled forest employees to handle these issues, JFM has essentially turned into a state-driven agenda. As a result, the JFM's outcomes are inconsistent. The government circulars' description of the benefit-sharing systems for main and minor forest products does not accurately reflect their actual nature. Even the state-specific legislation governing the management of forests varies. For example, the Societies Registration Act governs forest management in the states of Gujarat, Tamil Nadu, Maharashtra, and Haryana. The Karnataka Forest Act is unique to Karnataka, the *Van Panchayat Rules* of 2005 are in effect in Uttarakhand and Uttar Pradesh. Even the FRA has failed to give guidelines outlining who is responsible for communities' sustainable NTFP harvesting, how to ensure democracy in the *Gram Sabhas*, and how to hold LCs accountable for their failure to meet performance standards (Sharma & Chandra, 2013). Moreover, the question of whether communities are qualified to manage forests sustainably under FRA is rendered moot by IFA 1927, which gives the FD the authority to control forests (Sharma & Kohli, 2013).

2.5. Observation

A multitude of highly valuable natural resources can be found in forests (Songita, n.d.). In addition, a sizable portion of the population depends on the forest's resources for their living, either directly or indirectly (Sarma & Sarma, 2014). Because most Indian government policy texts view forests as properties of national importance and hence establish state authority and ownership over the woods while they resemble CPR, ownership rights over forests are crucial for their management (Tewathia, 2015).

During the British Colonial Administration, laws were passed in India that gave legal support to ideas such as forest conservation and protection. Forests were governed by the Central Government until 1935, when the Government of India Act was passed, placing state governments in charge of managing forests. Nonetheless, the States continued to abide by the Indian Forest Act of 1878's legal structure until India gained its independence. Forests continued to be a state

subject until independence and were listed in Schedule VII of the Indian Constitution until 1976. The IF Act of 1927 was implemented to regulate forests, but certain states, such as Assam, had their own laws, such as the Assam Forest Regulation of 1891. However, the 42nd Amendment Act of 1976 moved forests from the State List to the Concurrent List after that year. This decreased the States' authority over the forests, which was then further diminished in 1980 when an Ordinance for the conservation of forests was issued and quickly turned into an Act (Shrivastava & Barman, 2019).

In India, national policies formulated at the central level serve as the primary foundation for forest management. India's forest management after independence can be split into two periods: the industrial forestry period, which ran from 1947 to 1980, and the social forestry period, which began in 1980 and involved the active engagement of the public. Three significant policies that were important to the management of India's forests during this time could be mentioned: the National Commission on Agriculture (1976), the Forest Policy (1952), and the National Forest Policy (1988). The forests were divided into four groups under the 1952 policy: Village Forests, Protected Forests, National Forests, and Tree Lands. However, the village communities were not allowed to use the village woodlands at the expense of the "national interest." In 1976, the National Commission on Agriculture prioritized the commercialization of forests by removing valuable mixed species from areas and replacing them with species that had a higher market value. Nonetheless, the commission determined that the impoverished residents of the settlement required tiny timbers, fuel wood, and fodder. However, they further asserted that the over-exploitation of forest resources was primarily the fault of the rural populace, supporting a reversal of the rights allocation over forest resources. The established forest regulations were geared toward commercializing the woods and met the requirements of the five-year plans of the time (Prachita, n.d.).

The government was subsequently forced to recognize the significance of sustainable utilization and conservation of forests as a result of significant losses to the forest cover, pressure from around the world to conserve forests, and community resentment over the loss of traditional rights over the forests, particularly for those tribal communities that primarily depend on forest produce. Following the 1980s, the emphasis of policy was on involving the communities living in and near the forest areas in the forest management system to ensure the forests were protected and conserved, as well as sharing the revenue

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from the forests' output among them. From this point forward, the idea of social forestry was incorporated into policy planning. The JFM was adopted by the Indian government in 1990 as part of the National Afforestation Policy (Upadhyay, n.d.).

The fundamental tenet of JFM is that property rights over CPRs cannot be determined by legislation alone, necessitating a state-society cooperation. Furthermore, the FRA of 2006 sought to grant rights to the local forest inhabitants; nevertheless, numerous committees and commissions have proposed revisions to the aforementioned Act, which have yet to be implemented (Tamuli & Choudhury, 2011). Consequently, it may be said that in India, community-based organizations responsible for managing natural resources were largely dismantled and given no official legal status. The current generation of community institutions was primarily created by state architects, which means that they have no minimal means of utilizing their independent power to support forest management.

Furthermore, Indian laws continue to be rooted in colonial traditions that appropriated land reforms based on their potential for tax generation rather than their suitability for use by LCs. Even though legislation guaranteeing some rights to the most disadvantaged individuals was implemented, after 1980 these protections were also curtailed. Additionally, the NGOs and civil societies that were established to galvanize public movements to address the discriminatory issues that the marginalized sections faced also evolved into self-help organizations reliant on outside funding, which caused them to speak for the sponsors' interests rather than those of the people they were intended to represent. In addition to this, the middle class was strengthened by globalization and other reasons, while the weaker groups, such as the native tribal population, were neglected. The reason NGOs are attacked for their role in forcing community participation is that, after becoming contractors and gaining vested interests in their work, they begin to compromise on important governmental policies. The Gram Sabhas also lose their effectiveness as, in most situations, they are created to carry out government goals at minimal expense.

Moreover, even if they express the opinions of the community, they are treated as rival state servants at work, which is offensive. Additionally, communal politics create internal divisions within the communities. The two colonial ideas of *parens patriae* and *eminent domain*, which give the State parental rights over all

individuals and ownership of all resources, respectively, provide a challenge to India's democratic government. It is predicated on the idea that the State has the greatest ability to determine what is right and wrong for its people. The Bhopal Gas Leak case, when the State took on the role of parents representing its impacted citizens and made a deal with terms that are scarcely acknowledged today, is the best example of its terrible effects (Partners for Law in Development, 2002). The 2018 New Draft Policy has prioritized meeting the Paris Accord's and UNCCD's international climate change obligations, however it lacks a defined process. Additionally, it is said that by denying the communities that live in control of the forest, this approach has perpetuated the colonial goals of enhancing State control over forests. In the area of forestry, India has likewise fallen short of meeting a large number of its international commitments (SPRF Team, n.d.).

Positive actions were also done, too. For example, the Government of India recently announced that it would give better stoves to 0.1 million villages in forested areas. This initiative is projected to save 2 million tons of fuelwood year, resulting in a 3.6 million tonne reduction in CO₂ emissions. Additionally, the government has implemented a number of measures to reduce poverty that are relevant to forest areas, such as the 100-day employment guarantee provided by the Mahatma Gandhi National Rural Empowerment Guarantee Act (MGNREGA). If these programs are successfully put into place, they may lessen the reliance of forest communities on forests (Nayak, 2013). The expertise and knowledge of local communities (LCs) must be taken into account when crafting policies that promote a participatory approach. Top-down homogenous policies should be avoided to allow for the understanding of the diverse ecological problems found in various locales around the country (Sinclair & Ham).

It is therefore accepted that the majority of traditional community institutions have collapsed, and in the few places where they still exist, they will undoubtedly experience modern modifications because it is impossible for any institution of this type to endure in a vacuum and maintain its original character. Furthermore, the purposes for which these ancient institutions were established may no longer be served by their continued existence due to shifting social, political, and geographic circumstances. Furthermore, with the current legislative framework favoring a participatory approach rather than giving native communities complete sovereignty over natural resources, SFM cannot be achieved through such institutions. Therefore, the legal regime shall provide for arrangements that best

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suit the local communities encouraging them to voluntarily participate without demanding absolute ownership

Chapter - IV

Status of Human Rights of Forest Dwellers in Assam

4.1. Introduction

Assam is a state to the North-East of India known as the State of Jungles. Since the Forest as a subject is in the Concurrent List in the Constitution of India, the forests of Assam are also regulated by Union Legislations. However, certain State Regulations also prevail in regulating the local conditions of the forestry sector. Assam has a unique history of settlement of human population inside the forest areas and their rights have been unsettled since the time of independence. Therefore, an analysis of the status of human rights of the Forest Dwellers in Assam will provide a generalized understanding of the adaptability of the uniform central legislations across different local conditions unique to the States in India. The status of the human rights of forest dwellers have been studied through an empirical investigation that has been interpreted in this chapter to understand the ground reality of the population under study.

4.2. An Overview of the Management and Ownership over Forests of Assam

In Assam before the British Colonial Rule, 6/8th of land was covered with forests, primarily known as wastelands, mainly because of the inability to collect revenue from such lands. However, with the advent of the Britishers forests got commercialized initially timber was the sole product but later tea and jute cultivation was expanded through deforestation. Massive deforestation led to serious confrontations and thus the Assam Forest Protection Regulation 1981 came into existence that categorized the forests first into Reserved Forests, Open Forests, and Protected Forests. The Forest Departments (FDs) were first established after the partition of Bengal in 1874 to manage forests. The Act gave overwhelming powers to the State Government to declare any forest lands as reserved forests with certain rights to the local communities like right to pasture, right to way, right to draw water, etc. but such rights of the local communities were limited to the discretion of the State Government and the rights of the local communities got compromised. The villagers were granted certain rights for their benefits in the village forests but no rights of management of such forests were provided (Tamuli & Choudhury, 2012). Instead, the main motive behind the

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creation of forest villages was to generate free labour from the villagers for the commercial appropriation of the forests. It is reported that Assam initially had 524 non-revenue forest villages in 1901-02. 47.11% of the forest villagers belonged to Scheduled Tribes and around 233 out of these 524 forest villages consisted of more than 50% of the tribal population. However, those tribal populations residing outside the revenue villages within the jurisdiction of FD were denied benefits of development for a long time. The same was true with the non-tribal population residing within those villages. At present the conservationists held them to be encroachers but these people themselves are victims of encroachments and their issues are rarely sensed (Sabrangindia, 2024).

Even after independence, the legacy of exploitative practices persisted. To address these issues, various initiatives were introduced to safeguard the rights of marginalized groups, including forest-dwelling communities. One significant step was the inclusion of the Sixth Schedule in the Indian Constitution, following the recommendations of the Gopinath Bordoloi Committee. This schedule created special provisions for administering tribal areas in Assam and led to the establishment of District Councils to protect tribal rights.

These Councils were entrusted with managing forests for agriculture, infrastructure development, and regulating traditional practices like *jhum* cultivation. However, their implementation has faced criticism. Instead of strengthening traditional community-based forest management, the Councils have deepened the disconnect between tribal communities and the State government. By imposing a uniform set of rules, the diverse cultural and traditional practices of different tribes were overlooked. Furthermore, instances of elite capture within the Councils have been reported, where a few individuals dominate decision-making. The Councils cover large territories but fail to integrate traditional conflict-resolution systems and inter-tribal dialogue mechanisms. Additionally, their autonomy is limited, as they are still controlled by official bureaucracy, often leading to projects that do not align with tribal needs and resulting in failures (Chawii, 2007).

Tribal resources have also been increasingly exploited for commercial purposes. While the Constitution abolished forced labor (*begar*), this exploitative practice continued in some parts of Assam for years. Similarly, the forest village system, deemed unconstitutional by a 1990 circular from the Ministry of Environment and Forests (MoEF), still finds mention in contemporary forest policies. In 1984,

the Ministry of Agriculture recommended granting heritable but non-transferable land rights to tribal residents of forest villages. However, these recommendations were inconsistently implemented, particularly for *taungya* settlers. The same year, the Committee of Forestry Programme for Alleviation of Poverty proposed developmental activities for forest villages, but no substantial progress has been observed (Sonowa, 1997).

In Assam, tribal forest villages fall under the Assam Forest Regulation, 1891, rather than the Panchayati Raj Act or the Tribal Sub-Plan. This legal distinction prevents the Integrated Tribal Development Project from reaching these villages, leaving them deprived of essential survival facilities. Although the Government of Assam (GoA) promised to enact laws granting ownership of Non-Timber Forest Products (NTFPs) to Gram Panchayats, it limited their use to products not collected by the Forest Department or restricted their usage under departmental supervision. These provisions contradict the Panchayats (Extension to Scheduled Areas) Act (PESA) and undermine tribal autonomy over their natural resources.

Sustainable Forest Management (SFM) heavily relies on well-structured working plans. These plans go by different names depending on their purpose—for instance, in wildlife areas, they are called management plans, and in Tiger Reserves, they are referred to as Tiger Conservation Plans. They are interconnected with various other schemes, such as the Tribal Sub Plan (TSP) and the Scheduled Caste Component Plan (SCP), which are implemented by Forest Departments in forest villages. Additionally, other departments like health, education, and power also operate in these villages to support development.

In 2002, Joint Forest Management Committees (JFMCs) and Eco-Development Committees (EDCs) were established to promote community participation. The National Working Plan Code of 2014 further emphasized the importance of micro-planning with detailed guidelines (Ouguri Eco Development Committee, 2017). Despite these efforts, challenges persist, as seen in Sonitpur district, where 43,216.74 hectares of dense forests have been lost due to human settlement and agricultural expansion. Similar trends have been observed in Sonai Rupai Wildlife Sanctuary, the buffer areas of Nameri National Park, and Charduar and Balipara Reserve Forests, where forest cover has significantly declined (Kalpavriksh investigation team: Arshiya Urveeja Bose, 2009).

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The lack of robust local institutions and effective management plans has exacerbated forest degradation. Households in areas like Poba Reserve Forest (RF) report that inadequate governance has turned government forests into open-access areas, leading to the overuse and degradation of these shared resources (Ranabhata). Furthermore, historical events such as migration from Bangladesh and the Bodo agitation have transformed substantial portions of Reserve Forests into human settlements. This not only threatens ecological conservation efforts but also disrupts the socio-political stability of the region.

Although policies promoting community participation in forest management, such as the Assam Joint (Peoples' Participation) Forest Management Rules, gained traction, they often failed to fully recognize the rights of local communities (LCs) over the management of biological resources (BR) in forest areas. Joint Forest Management Committees (JFMCs) in Assam face several challenges, including inadequate consultation with communities to develop fair benefit-sharing mechanisms, conflicts between different societal groups and nomadic grazers over overlapping forest resources and pastures, and the lack of alignment between the micro-plans of Village Forest Development Societies (VFDS) and broader working plans for forest development (Project Management Unit, 2021).

The implementation of the Forest Rights Act (FRA) 2006 in Assam brought some progress, such as granting land rights to many Indigenous families in forest areas, including those in the Bodoland Territorial Council (BTC) region in November 2022 (Sentinal Digital Desk, 2007). However, several systemic issues have hindered its effective implementation:

- **Lack of Awareness:** Many officials tasked with implementing the FRA are unfamiliar with its provisions, leading to widespread mismanagement.
- **Illegal Claim Rejections:** Sub-Divisional Level Committees (SDLCs) have unlawfully rejected claims by Other Traditional Forest Dwellers (OTFDs).
- **Political Influence:** Migrants from Bangladesh have allegedly established political connections with the Government of Assam (GoA), creating conflicts with local fringe villagers over rights in proposed areas of Kaziranga National Park. Additionally, industrial traders have increased commercial activities in areas added to the park with the GoA's support.

- **Mismanagement of Land Titles:** The hasty distribution of land titles under FRA without proper caution has led to the misuse of the Act's provisions. Procedural flaws, such as the lack of boundary mapping in title certificates and insufficient documentation of land titles in official records, have compounded the issue.
- **Politicization of Implementation:** The FRA has often been applied to meet localized political objectives. For instance, the preference for Scheduled Tribes (STs) over OTFDs appears to be politically motivated. Senior officials, including the Chief Secretary of Assam, have expressed resistance to full implementation, citing concerns over potential forest loss.
- **Ambiguous Terminology:** The Assamese translation of the Act has added confusion, with terms like *Gram Sabha* being equated to *Panchayat*, which do not carry the same legal meaning.
- **Misinterpretation of Forest Definition:** Claims under FRA have been rejected for forests on revenue land, even where residents regularly pay fines (*tanji*), as these areas are not legally recognized as forests.
- **Understaffing and Inefficiency:** The Social Welfare Department, the nodal agency for implementing the Act, is understaffed and unable to meet its responsibilities effectively.

These issues, highlighted by the Ministry of Environment, Forest, and Climate Change (MoEF) and the Ministry of Tribal Affairs (MoTA) Committee reviewing FRA implementation in Assam, reflect deep systemic and procedural flaws that have significantly undermined the Act's goals of empowering forest-dependent communities (MoEF/MoTA Committee on Forest Rights Act, 2010).

Reports suggest that many forest dwellers in Assam live within forest areas not because they rely on them for their livelihoods but due to historical and accidental political movements (Kalpavriksh investigation team: Arshiya Urveeja Bose, 2009). Over time, Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs) have developed a socio-economic fabric that is largely homogeneous, making it difficult to distinguish between the two groups (Bijoy, n.d.). Any attempt to isolate or separately identify these communities could disrupt the delicate political and social balance in Assam.

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The provisions of the Forest Rights Act (FRA) 2006 were largely modeled on experiences from other parts of India, which bear little relevance to Assam's unique geo-political and socio-cultural context. The Act does not adequately account for the specific circumstances influencing forest-dwelling communities in the state. This oversight has led to problematic distinctions between STs and OTFDs, granting the State considerable discretion to determine eligibility for benefits. Such discretion often results in favoritism, with certain groups being excluded based on political affiliations rather than need or entitlement.

The FRA 2006 has also rendered some existing policies in Assam irrelevant, such as the Assam Forest Policy 2004, which uses 1980 as the cut-off year for identifying bona fide forest dwellers, while the FRA uses December 13, 2005, as the reference date (Sarma I. , 2012). Critics argue that the later cut-off under the FRA has inadvertently legitimized many encroachments into forest areas, allowing non-eligible settlers to claim rights and exacerbating forest degradation.

4.3. Study Area

The study area of the research includes the reserved forests, proposed reserved forests, buffer zones of protected forests including National Parks, Wildlife Sanctuaries, and other Biosphere Reserves with human settlements within the State of Assam for the field study. The study area also includes land with human settlements under the jurisdiction of the Forest Department with or without any visible forest cover.

4.4. Sample Area and Size

The entire State of Assam has been structurally divided into 35 sectors based on the division of districts under civil administration. However, in some cases, the forest divisions have been considered where districts and forest divisions are separately demarcated and for proper representation of the forest dwellers of such regions, forest division requires to be considered.

The process of sample selection was done before December 2022 when there were 35 districts in Assam but subsequently, the number of districts was brought down to 31 districts post-December 2022. For the study, 31 districts were covered since no traceable forest areas with human settlement could be found during the time of the survey in the districts of Barpeta, Majuli, Shivsagar, and Bishwanath Chariali.

20 samples of forest dwellers each from 31 districts were selected based on snowball sampling method and a total of 620 samples of forest dwellers were surveyed. In addition, 1 representative of each of the Forest Department, Non-Governmental Organizations, Village Council Development Committees/ Panchayats, and Forest Rights Committee from each district have been surveyed wherever possible. Furthermore, two unstructured interviews were conducted with Padmashree Shri Jadav Payen (Forest Man of India) and Mr Chandrakanta Basumutary (Former Brand Ambassador of Assam State Forest Department).

4.5. Classification of the Villages under Study

Different arrangements of villages were found during the study in and around the forest areas of Assam. Accordingly, villages have been classified considering their legal status. The figure below depicts the classification of villages in and around the forests of Assam:

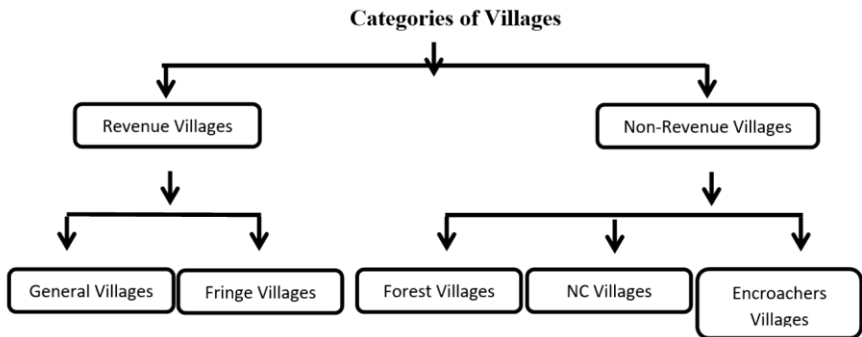


Figure 4.1: Classification of Villages in and around the Forests of Assam

The study identified several categories of villages in the targeted areas, excluding "General Villages" as they were irrelevant to the research. General Villages are those situated far from forest areas and outside the jurisdiction of the Forest Department (FD). These are revenue villages managed by the District Administration and have no direct connection to forest management.

In contrast, **Fringe Villages**, another category of revenue villages, are located near forest areas and play a vital role in forest management. Though under civil administration, their proximity to forests makes the involvement of their residents crucial for sustainable forestry. The study included these villages in regions where no forest villages were recorded.

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Non-revenue villages, under FD jurisdiction, were also examined. **Forest Villages** were established by the FD, and their residents have lived there for generations. **Non-Cadastral (NC) Villages** are settlements within forest areas that have existed for a long time but were excluded from Census surveys, leading to their classification as NC Villages based on local understanding. Lastly, **Encroacher Villages** consist of residents considered illegal by the FD, as they lack legal documentation for their habitation.

The survey focused on all these village types, except for General Villages, to understand their role in sustainable forestry.

4.6. Demographic Profile of the Respondents

After the classification of the villages, the demography of the respondents has been classified according to the classification of the villages.

The table below highlights the different categories of respondents representing different stakeholders in the management of forests that have been surveyed:

Sl. No.	Categories of Respondents	Numbers
1	<i>Local People Respondents from Fringe Villages belonging to Tribal Communities</i>	70
2	<i>Local People Respondents from Fringe Villages belonging to Non-Tribal Communities</i>	114
3	Total Local People Respondents from Fringe Villages	184
4	<i>Local People Respondents from Non-Revenue Villages belonging to Tribal Communities</i>	216
5	<i>Local People Respondents from Non-Revenue Villages belonging to Non-Tribal Communities</i>	220
6	Total Local People Respondents from Non-Revenue Villages	436
7	Representatives of the Forest Department	37
8	Representatives from Village Level Institutions	41

9	Representatives of FRC/JFMC/EDC or other Committees	10
10	Representatives of NGOs or other individual Social Workers	26
11	Total	700

Table 4.1: Different Categories of Respondents under Study

The major categories of respondents include Tribal and Non-Tribal Respondents from Fringe Villages and Non-Revenue Villages; Respondents belonging to Forest Departments; Respondents belonging to Village Level Institutions; Respondents belonging to Different Committees for management of Forests; and Respondents belonging to Local-Self Help Groups, NGOs, and other such organizations engaged in welfare activities inside the forests.

4.7. Status of Human Rights of the Forest Dwellers in Assam

To understand the status of human rights of the forest dwellers, the following parameters have been devised:

- a. **Income ability of the respondents:** Income is the basic necessity to understand the status of rights enjoyed by forest dwellers since a life with dignity depends much on income abilities.
- b. **Access to property:** The property right is essential for the empowerment of the forest dwellers since with no ownership rights, development is impossible. The right is further classified into two categories, the right to ownership over lands, and the right to access essential resources.
- c. **Right to education:** The right to education is considered a basic right however much depends upon the facilities to achieve such rights. This right can enable the forest dwellers to secure a better life for the future generations.
- d. **Right to healthcare:** This is included since healthcare is essential for a dignified life.
- e. **Transportation and communication facilities:** Such facilities are essential to avoid isolation and participate in the nation's developmental processes.
- f. **Right to development:** This right is based on all the above rights or can be said as an aggregate of all rights.

4.7.1. Income Abilities of the Respondents

To study the income abilities of the respondents, their occupational status and their income status of them have been studied.

a. Occupational Status

Occupation	Fringe Villages	Non-Revenue Villages	Tribals	Non-Tribals	Total Respondents in %
Agriculture	141	371	230	282	82.6
Business	20	32	20	32	8.4
Private Jobs	17	19	19	17	4.0
Government Services	6	14	8	11	4.8
Forest Produce	0	0	0	1	0.001

Table 4.2: Occupational Status of Different Categories of Respondents

The survey reveals that a significant majority—82.6% of respondents—rely on agriculture for their livelihood. In contrast, only 8.4% are engaged in business, 4.8% in government jobs, and 4.0% in private jobs.

As depicted in the Figure, agriculture emerges as the primary occupation across both fringe and non-revenue villages, among both tribal and non-tribal communities. However, notable differences exist between the two village types: respondents from fringe villages show a higher inclination toward government jobs, while non-revenue villages see greater participation in private sector jobs. Tribals, in particular, exhibit a stronger reliance on agriculture compared to other occupations. Additionally, one tribal respondent was found to depend entirely on forest produce for their livelihood. This shows that dependency on forest produce has reduced significantly due to the commercialization of agricultural produce as reported by Chandrakanta Basumutary. This overemphasis on agriculture leads to deforestation and encroachments in the forest lands. Many non-revenue villagers have already encroached on the forest lands. Even fringe villagers having ownership rights over revenue lands often encroach on forest lands for agricultural expansion.



Figure 4.2: Evidence of Encroachments in Manas National Park in Baksa District through Agricultural Expansion

b. Income Status of the Respondents

The level of the monthly income of the respondents has been grouped into 4 classes, viz- Rupees 0-15,000, 15,001-30,000, 30,001-45,000, and 45,000+.

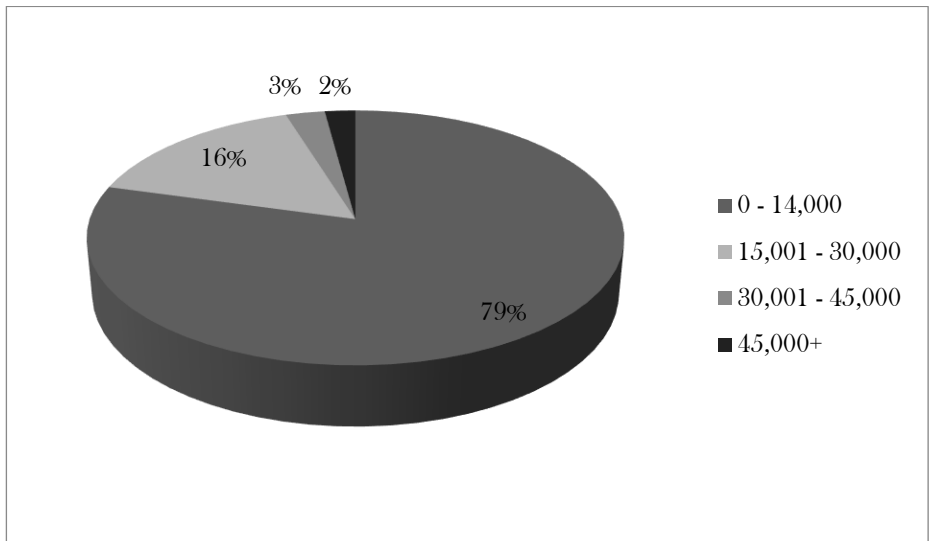


Figure 4.3: Level of Monthly Income of All the Respondents in Percentage

It is found that 78.9% of the total respondents have a monthly income of fewer than 15,000 Rupees, 15.8% of the respondents have a monthly income of 15,000-30,000 Rupees, and 2.7% of the respondents have a monthly income above 30,000 but less than 45,000 and only 2.1% of the total respondents are having a monthly income of above 45,000.

This figure shows that the living standard of the people residing in or near the forest villages is far below the expected level. It is further observed that the people

living in the revenue villages near the forests have higher chances of getting a government job compared to those who are residing inside the forests.

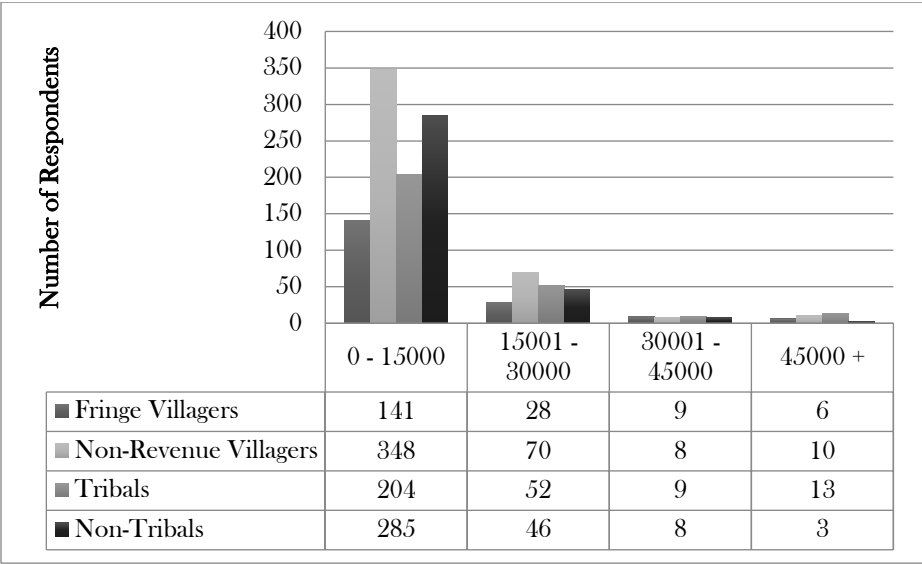


Figure 4.4: Monthly Income of Different Categories of Respondents

In fringe villages, the majority of respondents—over 76%—earn less than 15,000 Rupees per month. Around 15% earn between 15,000 Rupees and 30,000 Rupees, 4% earn between 30,000 Rupees and 45,000 Rupees, and just 3% earn more than 45,000 Rupees.

Similarly, in non-revenue villages, approximately 73% of respondents have a monthly income of less than 15,000 Rupees. About 20% earn between 15,000 Rupees and 30,000 Rupees, 2% earn between 30,000 Rupees and 45,000 Rupees, and 3% earn more than 45,000 Rupees.

When focusing on tribal respondents from both village types, around 73% have a monthly income below 15,000 Rupees. About 19% earn between 15,000 Rupees and 30,000 Rupees, 1% earn between 30,000 Rupees and 45,000 Rupees, and around 4.6% earn more than 45,000 Rupees.

Among non-tribal respondents, 83% have a monthly income below 15,000 Rupees. Approximately 13.4% earn between 15,000 Rupees and 30,000 Rupees, 2% earn between 30,000 Rupees and 45,000 Rupees, and just 0.9% earn more than 45,000 Rupees.

4.7.2. Access to Property

The capability to access property for forest dwellers is necessary to exercise their human rights. It depends upon their land rights for the basic human right to shelter and also the right to access other essential resources for maintaining a dignified human life. Accordingly, access to property is studied under the following two categories:

a. Ownership over Land

The FRA, 2006 provides for the eligibility of the local forest dwellers to possess forest land under their ownership. These eligibilities include a member of the ST community residing inside the forest or OTFD residing for a minimum of 75 years. From the study, it was found that the forest dwellers in Assam have migrated inside the forest areas across different times in different regions. There are forest dwellers who have been residing inside the forests since the British Raj but a majority of the villagers in the non-revenue villages were found to have settled after the independence of India. For assessing the overall period of settlement of villages across the entire surveyed regions, the period has been divided into four different time zones, viz.- pre-1925 since in 1925 the IF Act was enforced, from 1925-1950, from 1950-1980 since after 1950 massive de-reservation of forests took place in Assam and a huge portion of the landless population were allowed to settle inside the forests or near the forest areas and post 1980 since the policy outlook in India changed after adoption of the FC Act 1980 and its subsequent policies till date which even had its influence in Assam.

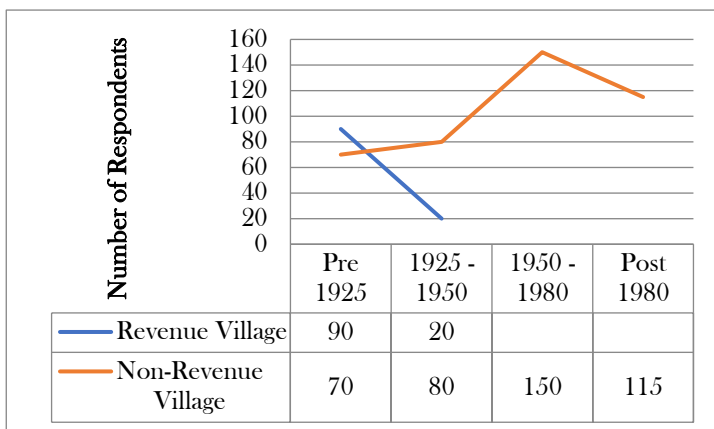


Figure 4.5: Period of Settlement of Respondents from Revenue and Non-Revenue Villages

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It is observed from the above chart that a majority of the population in the non-revenue villages of Assam migrated to forest areas between 1950 to 1980 and the second largest number of settlements of these villages took place after 1980. This indicates that a majority of the population will be under threat of eviction if FRA is strictly implemented. It also highlights that the population that arrived earlier have already gained the status of revenue villages having permanent land rights. However, since a majority of the population has settled post-1960, their land rights are still unsettled. The ST population can still gain ownership rights over their forest lands under FRA, 2006 but the non-ST population will be deprived merely due to not belonging to ST community.

b. Access to Essential Resources

Most respondents shared that their reliance on forest produce has significantly decreased compared to earlier times. However, they still collect dry wood and leaves for fuel and ceremonial purposes, but only with permission from the Forest Department (FD) overseeing their village. In revenue villages, dependence on forest resources is almost negligible. The availability of LPG connections in many surveyed villages has further reduced their reliance on fuel wood.

Interestingly, in non-revenue villages, forest lands are primarily used for cultivating rice, and in Upper Assam, tea plantations on forest lands have also been observed. In addition, plantations of fruit and betel nut trees are quite common in these areas. In Tinsukia's Jokai Reserve Forest (RF), the FD stated that planting permanent trees is prohibited, and respondents noted that constructing permanent structures in the RF is also restricted. Violations of these rules often result in eviction. Nonetheless, some instances of permanent constructions exist, such as a two-story house owned by a village headman in the *Hailakandi* Forest Division.

In *Karimganj* district, it was reported that while the Divisional Forest Officer (DFO) only provides No Objection Certificates (NOCs) for electrification, Panchayats, with support from civil authorities, have managed to access various government schemes previously not allowed in forest areas. Meanwhile, the FD has restricted road construction in core RF areas to curb smuggling activities.

In *Silchar*, respondents from *Ramprasadpur* Forest Village (FV) stated that they mainly rely on agricultural produce from the 12 bighas of forest land initially granted to them. Despite filing multiple petitions for land rights, no response has

been received. Conversely, in the *Rakhyashani* RF of Goalpara district, encroacher villages have reportedly benefited from schemes like the Indira Gandhi Awas Yojana (IAY).

In *Chirang* district, forest villagers receive similar benefits in revenue villages, including access to schemes like MGNREGA, PMAY, and IAY. In Dibrugarh, residents of *Dihing-Mukh* RF revealed that their lands have been measured under the Basundhara scheme, and five of seven villages have already received pattas (land titles). These residents now pay revenue to the FD.

In the *Balipara* RF of *Sonitpur* district, mobile connectivity is a challenge due to restrictions on tower construction. Telecommunications companies have taken risks to build towers, relying on local cooperation. In *Udalguri* district, respondents from *Sikaridanga* FV reported frequent losses due to elephant encroachments on agricultural fields, for which they have received no compensation despite promises from the FD. They also highlighted the region's dryness, which limits agricultural productivity. Similar concerns were shared by the village headman of *Charaipung* FV in Tinsukia, where families of those who lose their lives in human-elephant conflicts receive no support.

A member of the *Garbhanga* FV Panchayat recounted an abandoned electrification scheme. Although materials were delivered, traditional wires posed risks to wildlife, and the installation of specialized wires was cost-prohibitive. Solar panels were installed instead, but they generate insufficient electricity. Additionally, after the implementation of the Forest Conservation (FC) Act, permission from the Central Government is required for any welfare scheme, creating significant hurdles.

In Darrang district's *Tengara* village, residents stated that forests no longer exist in their area, and the FD rarely visits. However, they are still denied land rights, while others in similar circumstances have received pattas.

In *Golaghat's Nambor* RF, locals, led by Krishak Mukti Sangram Samiti in 2005, demanded land rights. While some *Misshing* tribal members were granted legacy certificates in 2010, others received nothing. Poor infrastructure and healthcare further exacerbate the challenges here, especially for women. However, schools and electricity are available.

In *Charaideo's Sapekhati* RF, non-revenue villages have *Naamghars* (prayer houses), are well-connected, and enjoy reliable electrification. Meanwhile, in the

Khrungming RF of *Dima Hasao*, cultivation and access to forest resources are generally permitted.

In *Tamulpur* district near *Kumarikata* RF, infrastructure is a significant concern. While developed areas have schools, the underdeveloped regions lack basic medical facilities, roads, and other essentials, leaving many below the poverty line. Human-elephant conflicts are also a persistent issue.

Finally, in the *Batabari* Forest Range, residents were allocated 10 bighas for cultivation and 2 bighas for housing by the FD. They pay revenue for this land, which increased from 40 paise per bigha to 10 Rupees per bigha after 2012.

4.7.3. Right to Education

The assessment of educational access focuses on the availability of primary educational institutions within the respondents' villages or a 1–2 km radius. This analysis further categorizes respondents based on their location—fringe villages or non-revenue villages—and their community background, distinguishing between tribal and non-tribal respondents.

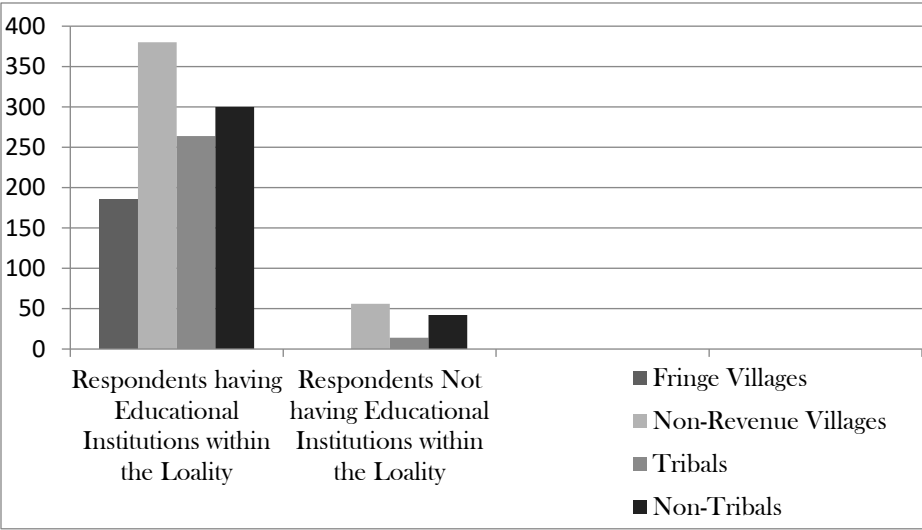


Figure 4.6: Status of Availability of Educational Institutions within the Locality for Different Categories of Respondents

In fringe villages, all respondents confirmed the presence of educational institutions within their locality or village. However, in non-revenue villages, the

absence of educational institutions is more pronounced among non-tribals compared to tribals.

It was noted that many educational institutions in non-revenue villages are in poor condition, with most being either primary schools or privately run. In encroacher villages, access to education is almost non-existent. Some village headmen further reported that the implementation of the Forest Conservation Act of 1980 has made it challenging to construct new educational facilities in forest areas.



Figure 4.7: Images of Private Schools and Students inside the *Garbhanga* Wildlife Sanctuary



Figure 4.8: Image of Government School near *Garbhanga* Wildlife Sanctuary

The above figures highlight the dismal conditions of the educational institutions mainly inside the forest areas. This is responsible for the inaccessibility of education for the forest dwellers in Assam. The private institutions inside the reserve forest areas are in a very pathetic condition.

4.7.4. Right to Healthcare

As already stated earlier, like in *Nambor* RF healthcare facilities are very poor inside the reserve forest areas. In most of the forest areas, the Public Health Centres lack adequate manpower for the extension of healthcare services. In

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most of the forest villages even in revenue villages, only one or two *Asha* workers are appointed. In non-revenue villages, the situation is even more pathetic.

Further improper infrastructure and communication facilities intensify the problems for patients during mobility. The roads are not concrete and electrification is also not continuous inside the forest areas. Moreover, communication hardship during an emergency further makes the situation more pathetic.

4.7.5. Infrastructure and Communication

The infrastructure facilities inside the reserve and protected forests are very poor. The FC Act, of 1980 restricts any infrastructural development for the conservation of forests and for any such activities, prior approval from the Central Government has been mandated by the Act. Further, the FD prohibits the construction of roads inside the dense forests to prevent the smuggling of timber and other resources. All these deprive the forest dwellers of enjoying a healthy life. Permanent constructions are illegal inside the reserve forests as reported by the FD representatives and other social workers. However, during the survey it was also observed that influential social figures like the village head under the *Hailakandi* forest division is having a two-story building inside the reserve forest areas.

Although such restrictions are inevitable to maintain the forest ecosystem disparities have been witnessed with regard to bureaucrats and the poor population of the forest region. Lack of electrification, concrete roads, mobile communication, schools, hospitals, etc. are major issues that hinders the forest dwellers from enjoying the life of a human being.



Figure 4.9: Images showing *Katcha* roads from Forest Areas of *Darrang* District



Figure 4.10: Residential Areas of *Sonamukhi* Villages near *Tokorabandha* Proposed Reserve Forest



Figure 4.11: Houses of Forest Villagers from *Charaipung* Forest Village

All the above images highlight the manner of life enjoyed by the forest villagers inside the forest villages of Assam.

4.7.6. Right to Development

The right to development is based on the factors discussed above. In the forests, life becomes complicated due to complex social structures. It is already observed that the forest dwellers lack basic essential resources to live a life with dignity. In such a situation, a lot depends upon the welfare policies and the institutional arrangements made by such policies. Therefore, the Right to Development is studied in two heads- the Status of Various Committees Constituted by the Regulatory Framework, and the Major Limitations for Exercising the Right to Development.

a. Status of Various Committees for Development

Considering the remote and isolated conditions of the forest areas and the need for the conservation of forests, various committees and institutions were developed from time to time to meet the objective of empowering the local forest dwellers without compromising the health of the forests. Such committees

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include: Joint Forest Management Committees (JFMCs), Ecosystem Development Committees (EDCs), Forest Rights Committees (FRC), etc.

The study highlights the state of Joint Forest Management Committees (JFMCs), Biodiversity Management Committees (BMCs), and Forest Rights Committees (FRCs) across various districts. In *Karimganj*, JFMCs initially thrived but later became less active due to policy conflicts, though some still function. BMCs were planned but remain underdeveloped, while FRCs operate in forest villages, progressing in their proceedings. Some tribal villages have received title certificates under the Forest Rights Act (FRA), 2006, but land demarcation issues delay land rights. The Assistant Conservator of Forests (ACF) noted that FRCs focus on tribal community rights, as non-tribal residents often lack the 75-year residency proof required under FRA.

In *Silchar*, only two tribal villages had active FRCs, while non-tribal villages lacked such committees. The headman of *Ramprasadpur* Forest Village alleged corruption caused the failure of JFMCs, which once operated but provided no tangible benefits. The absence of BMCs and FRCs was also noted, and land revenue collection by the Forest Department ceased in 1997. In *Charaipung* and *Lakhipathar*, FRCs and BMCs were absent. *Lakhipathar's* former Panchayat president cited corruption and misuse of JFMC funds as causes for its failure, prompting the Panchayat to establish conservation committees involving NGOs, women, and villagers.

In *Bongaigaon*, the *Kakojana* Reserve Forest JFMC, formed in 2001, continues to protect the forest. A Village Development Council also supports conservation and tourism, initially involving government personnel but now entirely run by villagers. The *Rakhyasani* Reserve Forest in Goalpara formed a BMC in 2019, while in Baksa near Manas, active FRCs are addressing forest dwellers' rights, though lack of documentation poses challenges. The *Jokai* Reserve Forest had functional JFMCs that ceased without explanation. Similar issues were reported in *Dihing-Mukh*, where residents accused politically connected individuals of monopolizing JFM benefits. No BMCs or FRCs were found, and repeated funding for the same plantations raised concerns.

In *Sonitpur*, inactive JFMCs were noted, and allegations of corruption surrounded the non-resident secretary of one such committee. In *Udalguri's* *Sikaridanga* Forest Village, 113 families received FRA title certificates between 2018 and 2019, but Adivasi claims were often rejected due to illiteracy and

procedural ignorance. In *Garbhanga* Reserve Forest, an FRC formed in 2009 has handled 340 individual and 92 community claims, with many non-tribal claims rejected. The JFMC, once successful, has recently been reconstituted and awaits activation.

The *Kulshi* Range in *Kamrup* (Rural) has an active BMC, but JFMCs are defunct due to funding shortages. FRCs process about 300 claims, mostly from tribal communities, while non-tribal claims face rejections due to documentation issues. In *Dhemaji's Poba* Reserve Forest, JFMC activity has dwindled, and the Village Land Management Committee was replaced by the Village Land Conservation and Disaster Management Committee under Mission Basundhara 2.0. In East *Karbi Anglong's Dokmoka* Range, neither JFMCs nor BMCs exist. Two EDCs operate in *West Karbi Anglong's Phongloket* region, while in *Lakhimpur's Pabho* Reserve Forest, no JFMC, BMC, or FRC exists, and the forest area remains un-demarcated.

Golaghat's Nambor Reserve Forest has EDCs and one JFMC, though FRC information is unavailable. *Sapekhati* Reserve Forest features active JFMCs, while *Pobitora* Wildlife Sanctuary has EDCs engaged in forest development, but no JFMCs or BMCs. In *Laokhowa* Wildlife Sanctuary, JFMCs and EDCs are operational. In *Tamulpur* near *Kumarikata* Forest Range, four active FRCs address claims, and a BMC conducts awareness programs. In *Batabari* Forest Range, the BMC exists but struggles with funding, while the FRC reports positive progress in land rights claims.

b. Major Limitations towards the Right to Development

The major limitations that hinder the development of the forest dwellers have been categorized under the following headings:

i. Encroachment and Illegal Activities

The survey revealed two distinct groups of encroachers: internal and external. Internal encroachers are residents of forest or non-cadastral (NC) villages who, due to growing families or the need for more agricultural land, clear forests to expand into forested areas. External encroachers, on the other hand, are individuals or groups from non-forest regions who move into forests and clear land to settle.

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In Baksa district, there are reportedly no external encroachers. However, residents of NC villages frequently encroach on the National Park and core areas of the Manas Biosphere Reserve, primarily to expand agricultural activities and accommodate extended families. It was noted that the Forest Department (FD) carried out evictions of some families from these areas in 2019. Despite this, agricultural expansion continues to be observed within the boundaries of the National Park.



Figure 4.12: Agricultural Expansion inside Manas National Park and around the Beet Office

In the *Karimganj* district, it was reported that there are both internal and external encroachments. An encroacher village was surveyed where respondents were found having different addresses in different government identity proofs and when eviction notices are issued by the FD, these residents use to file petitions before the District Court which puts an injunction on such notices and the FD reported that subsequently they are unable to take any action for eviction. In the meantime, these encroachers have enough time for resettlement by clearing some other forest areas and the process continues.

These encroachers at first clear a small area but subsequently with the extension of their families they continue increasing their residential areas by clearing more areas. Evidence of paying house tax to the *Panchayat* by these encroachers was also found which is very unique since inside the forest areas house tax collection makes no sense.



Figure 4.13: Encroacher Villages from the Forests of *Karimganj*

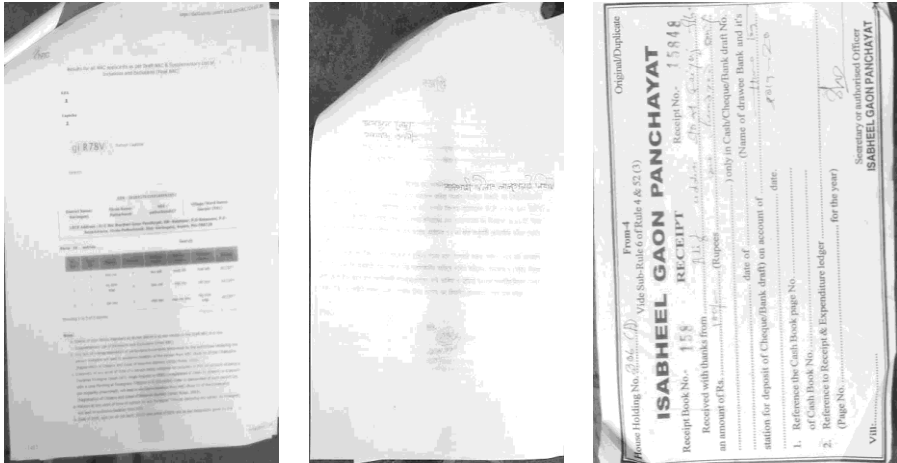


Figure 4.14: Government Documents of Encroachers from *Karimganj* District with Different Names of the Same Individual and the House Tax Receipt paid to the *Panchayat*

In the *Silchar* district, 662.4 hectares of land in ILRF and 184.42 hectares of land in *Sonai* RF were reported to have been encroached. These areas have been encroached on by internal encroachers through the territorial expansion of their residential areas. In the *Tinsukia* district in *Lakkhipathar* region, encroachment inside the forests by way of tea plantations was reported by the local people.

In the *Rakhyasani* RF of *Goalpara* district encroachments were reported to have taken place recently in 2017 and 2022. In the *Dhubri* district, revenue villagers are encroaching through agricultural expansion and extension of residential areas inside the *Tokorabandha* PRF. In the *Balipara* RF of the *Sonitpur* district, it was reported that there are encroacher villages within the RF and these villages are extensions of the existing FVs. It was reported that in the *Poba* RF of the *Dhemaji* district encroachment activities gained momentum since 1990. The *Dokmoka Range Office* of *East Karbi Anglong* district reported that there is illegal immigration causing encroachment in the forests.

Massive encroachment has been reported in the *Pabho* RF along with deforestation. Further many heinous crimes are reported to have been committed in the areas surrounding *Adi Alangi Satra* where the local respondents revealed that most of the victims did not get justice to date even after getting down to the floors of the Courts. In *Sapekhati* RF of *Charaideo* district under *Sibasagar* Forest Division, it was reported that the RF covered initially an area of 700

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hectares which has now been reduced to 300 hectares due to encroachments. The RF has suffered both internal and external encroachments. The non-revenue villages that have encroached on the RF are *Sonalipur*, *Lakhipathar*, *Atal Barua Gaon*, *Disangpuria*, etc.

In the *Tamulpur* district near *Kumarikata Forest Range* many areas have been reported encroached by the villagers and new villages in the form of encroacher villages were formed. Some of such areas are: *Sigunbari*, *Talukdar basti*, *Jekaikona*, *Hajongbasti*, *Hastinapur Line*, *Mushahary Line*, *KaltuHajong basti*, *Sridan Basti*, etc.

It was informed that 45% of the land of *Batabari RF*, *Subankata RF*, and *Mora Pagla Diya RF* along with 25% of *Dihira PRF* have already been encroached on. It was also informed that these encroachers are generally not forest villagers and are also not illegal immigrants. But they are from outside the forest areas and also some are from outside the State.



Figure 4.15: Images of Revenue Villagers encroaching inside the Proposed Reserve Forest in *Dhubri* District

ii. Illegal Activities

It was reported by the *Silchar* district that smuggling activities inside the RF are mostly conducted by smugglers entering from the state of Mizoram. In the *Tinsukia* district, it was revealed that unemployment amongst the young generation is a major reason that motivates them to engage in building nexus with the outsiders conducting smuggling activities with the help of them inside the forests. However, the FD held the local people as mainly responsible for assisting the smugglers in committing offences while the local people argued that it was the irresponsible behavior of the FD that allows certain sections of the population to indulge themselves in the smuggling activities.

In the *Baksa* district, near the Manas Biosphere Reserve, it was reported that the entire Manas area was once massively destroyed by militant activists. These terrorists once forced the FD to surrender and took away the weapons however the FD was re-settled after the signing of the BTC accord after which BTAD was formed. It was also asserted by the local respondents that once killing and selling of flesh of wild animals like deer, commercially viable timbers, etc. were very common and their markets were established by the local people openly. Even deer meat and other important forest resources were presented as bribes to the forest officials and the armed personnel that were deployed for controlling the violence at one time for indecent favors from them. In districts of *Kokrajhar* and *Chirang*, it was reported that human settlement increased inside the forests due to increased violence during the *Bodo* agitation and due to terrorist activities conducted by NDFB. In the *Lakhipathar* and *Charaipung* regions also some forest officials reported that militancy activities in the region also injured the forests to some extent in the past. It was reported both in *Baksa* and *Tinsukia* districts that forests are used by terrorist groups as a means of transit.

In *Kakojana* RF from *Bongaigaon* district, FD was held responsible for the destruction of the forests. In *Tokorabandha* PRF of *Dhubri* district encroachments from revenue villages was found. In *Balipara* RF of *Sonitpur* district, corruption in government schemes was reported. In *Kamrup (Rural)* under the *Kulshi Range* smuggling of timbers and other forest resources was held responsible by the FD for the destruction of the forests.



Figure 4.16: Encroacher's Vehicles seized by FD

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In the *Hojai* region, it was reported by the *Lankajan* Range Office that outsiders use to commit smuggling activities and illegal land mining; however, such activities are strictly handled whenever caught. Instances of elephants being killed due to train accidents in the *Gibbon Wildlife Sanctuary* in *Jorhat* were informed by the respondents since a railway track passes nearby the Sanctuary. In the *Pabho RF* of *Lakhimpur* district, it was alleged that it has also been informed that in 1976 Afazuddin Ahmed won the constituency election and since then the RF has been destroyed by religious minority groups. It was further informed that political reasons and the forest department are mainly responsible for the destruction of the forest since a majority of the illegal activities happen in the presence of the FD and it is also alleged that the FD knows all the major deforestation activities. In the *Pobitora Wildlife Sanctuary* of *Morigaon* district, it was reported that floods cause a lot of issues inside the sanctuary. The *Batabari* Forest Range informed that encroachment is a major reason that increases human-wildlife conflicts in their regions since human beings encroach inside the wildlife habitats. Furthermore, illegal immigration from outside Assam was also found as one of the major reasons for the destruction of forests as reported from *East Karbi Anglong*.

iii. Status of Eviction

Notice of eviction means a notice issued by the FD stating that the place of residence of a particular person(s) within the jurisdiction of that FD shall be vacated within a specified period or otherwise the FD shall evict such residents from the concerned place. For assessing the number of respondents who faced notice of eviction or who came across any such notice within the locality, only respondents from non-revenue villages were selected since in revenue villages land rights are permanent and such villages do not come within the jurisdiction of the FD.

It is found that 36.2% of the total respondents from non-revenue villages have faced notice of eviction or came across any such notice within their locality.

It was reported by the FD in *Silchar* district that once in *Rajanikhal* FV, residents were evicted for the construction of a Zoo. In the *Rakhyasani* RF of *Goalpara* district notices of eviction were served several times in the year 2011, 2017, and also in 2018. But such eviction notices could not be executed after negotiations between the villagers and the FD. In *Tokorabandha* PRF of *Dhubri* district, the

DFO has evicted the encroacher several times and demolished their constructions.

In *Sonitpur* district inside the *Balipara* RF, eviction was once done in the *Chotai* region but no eviction was reported in the FVs and other encroacher villages. In the *Nambor* RF of *Golaghat* district eviction was done by the FD along with police officials in 1985 where elephants were deployed to demolish the residential constructions of the encroachers in the villages named *Ali Singa Gaon* and *Ouguri* village. Another eviction occurred in the year 2002 where besides using elephants for demolishing the houses, the fire was used to burn the dwelling houses and other properties of the encroachers. In *Sapekhati* RF of *Charaideo* district eviction was done during 1989-90.

4.8. Interpretation of Empirical Data

In Assam, the settlement patterns within forest areas vary significantly across regions, lacking any uniformity. This creates challenges in identifying legitimate beneficiaries, especially with the presence of diverse tribal and non-tribal communities. Adding to this complexity is the issue of encroachers, many of whom reside within forests without legal authorization. Non-revenue villages, where most of these communities live, are severely underdeveloped, with inadequate access to basic survival facilities. The majority of forest-dependent people earn less than ₹15,000 per month and heavily rely on agriculture, which often leads to further encroachment on forest lands. While traditional shifting cultivation has significantly declined, it persists in isolated areas like Garbhanga Reserve Forest.

In many districts such as Baksa, Sonitpur, Silchar, Dibrugarh, and Tinsukia, forest villagers and some non-revenue villagers pay revenue to the Forest Department (FD). However, this practice is inconsistent, with some areas discontinuing the collection altogether. The once-prevalent system of *begar* (unpaid labor for the FD) is no longer observed. Basic infrastructure, including health facilities, roads, FD camps, and communication networks, remains in dismal condition in non-revenue villages. Educational institutions are limited to primary schools. The Forest Conservation Act (FC Act) has hindered the implementation of welfare schemes in forest areas, although Panchayats have managed to introduce such schemes in some encroacher villages. Despite regulations prohibiting permanent constructions in reserve forests, such activities,

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including tree plantations, are occurring in certain areas, reflecting inconsistent enforcement of legal provisions.

The establishment and functioning of committees like Biodiversity Management Committees (BMCs) and Joint Forest Management Committees (JFMCs) lack uniformity. Many respondents cited corruption, insufficient funds, and lack of commitment in these initiatives. Forest Rights Committees (FRCs) were more commonly found in tribal areas but were absent in non-tribal regions like Sonitpur, Dibrugarh, and Tinsukia. While the Forest Rights Act (FRA) is applied in most reserve forest areas, schemes like Mission Basundhara 2.0 are being used for land settlement in some Upper Assam villages, raising questions about the coexistence of state and Union-level legal frameworks.

Encroacher villages often maintain amicable relations with the FD, but irregularities were noted, such as individuals in Karimganj possessing conflicting identity documents to evade eviction notices. These cases also highlight judicial inconsistencies, as district courts have granted injunctions in matters where civil court jurisdiction is legally barred.

Historically, both tribal and non-tribal settlements in forest areas have predominantly occurred post the 1950 earthquake and subsequent floods. Despite similar settlement timelines, non-tribals are denied FRA 2006 benefits due to the inability to prove 75 years of residence, while tribals can qualify with a simple caste certificate.

Several factors contribute to forest degradation, including terrorist activities, population growth, natural disasters, unplanned settlements, corruption, illegal immigration, and a lack of public awareness. While political interference and vote-bank politics have exacerbated the situation, it is also evident that the Forest Department has made commendable conservation efforts since 2000, though these efforts often lack adequate support and collaboration.

4.9. Observation

It reveals a complex and layered reality of struggles, legal frameworks, and socio-economic challenges faced by the forest dwellers in Assam. It has been found that how historical injustices, policy implementation gaps, and environmental concerns intersect to shape the lives of forest-dependent communities in the state.

One of the most significant observations is the historical displacement of forest dwellers due to colonial and post-colonial policies. The British administration, through laws such as the Bengal Forest Act of 1865 and the Assam Forest Regulation of 1891, institutionalized a system where forests were no longer community-owned but came under state control. These policies, originally designed to maximize commercial gains from timber and plantation industries, marginalized local communities and denied them their traditional rights over land and resources. Even after independence, similar patterns of exclusion continued, with state policies prioritizing conservation over the rights of indigenous and forest-dependent populations.

The chapter highlights the classification of different village types in and around forests, each with varying degrees of legal recognition. Revenue villages, fringe villages, non-revenue villages, forest villages, non-cadastral villages, and encroacher villages were identified as distinct categories. While some villages have partial legal recognition, others remain in a legal gray area, with residents being considered encroachers despite historical habitation. This distinction significantly impacts the socio-economic conditions of forest dwellers, affecting their access to basic amenities, legal rights, and economic opportunities.

Economic challenges are a key aspect of the human rights issue. Many forest dwellers depend on forests for their livelihoods, engaging in subsistence agriculture, minor forest produce collection, and wage labor. However, limited access to land ownership, lack of employment opportunities, and restrictions on forest use under conservation laws have made economic survival difficult. The study notes that despite government interventions such as the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), implementation remains inconsistent, and many villagers are unaware of or unable to access these benefits.

Another major concern is the inadequate provision of basic services like education and healthcare. The chapter notes a significant lack of schools, particularly in non-revenue forest villages. Many children are unable to receive formal education due to the absence of nearby institutions, leading to a cycle of illiteracy and economic vulnerability. Similarly, healthcare access remains minimal, with villagers often having to travel long distances for medical attention. These challenges contribute to broader human rights concerns, as the inability to access education and healthcare affects overall well-being and socio-economic mobility.

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The role of governance and legal frameworks is critically analyzed. While the Forest Rights Act of 2006 was intended to recognize and restore the rights of forest dwellers, its implementation in Assam has been fraught with challenges. Bureaucratic delays, political influences, and the reluctance of the Forest Department to relinquish control over forest lands have led to significant gaps in enforcement. The distinction between Scheduled Tribe and Other Traditional Forest Dwellers categories has also created disparities, with many non-tribal forest dwellers being denied recognition despite their long-standing presence in forest areas.

The tension between conservation efforts and human rights have also been witnessed. Strict conservation policies, often influenced by global environmental commitments, have led to eviction drives and restrictions on traditional forest-based livelihoods. While protecting biodiversity is essential, the exclusionary approach adopted by authorities has often resulted in forced displacements without adequate rehabilitation. Conservation policies have thus inadvertently contributed to the marginalization of forest communities, making it necessary to adopt a more inclusive approach that integrates local knowledge and participatory management.

The research also brings attention to the emerging patterns of political and social conflicts within forest communities. The categorization of legal and illegal dwellers has led to divisions, often exacerbated by communal politics and state interventions. Additionally, the concept of 'parens patriae'—where the state assumes a paternalistic role over its citizens—has been critiqued for sidelining the autonomy of local communities in managing their resources.

Therefore it can be observed that the human rights of forest dwellers in Assam remain precarious due to historical injustices, legal ambiguities, economic hardships, and exclusionary conservation policies. There is an urgent need for policy revisions that balance ecological conservation with socio-economic justice. Strengthening the implementation of the Forest Rights Act, ensuring inclusive governance, and promoting sustainable livelihood opportunities can help bridge the existing gaps. A participatory approach that acknowledges the lived experiences of forest dwellers while addressing environmental concerns is crucial to ensuring that their fundamental rights are upheld.

Chapter - V

Conclusion and Findings

The research provides a comprehensive analysis of their socio-economic conditions, legal challenges, and environmental conflicts. The study highlights the intricate relationship between forest conservation and the rights of indigenous and forest-dependent communities, emphasizing the urgent need for policy interventions that strike a balance between environmental protection and human rights.

One of the key observations of this study is the historical marginalization of forest dwellers due to colonial and post-colonial policies. The British administration implemented a legal framework that prioritized the commercial exploitation of forest resources over the rights of local communities. This trend continued even after India's independence, with conservation policies often failing to consider the traditional rights of forest dwellers. The legal framework governing forest rights in India, including the Forest Rights Act of 2006, was designed to address historical injustices but has faced significant implementation challenges in Assam. Bureaucratic hurdles, political interference, and lack of awareness among the affected communities have prevented the effective realization of these rights.

The study categorizes forest dwellers into various classifications based on legal recognition, including revenue villages, non-revenue villages, encroacher settlements, and fringe forest communities. Each category faces different challenges, with non-revenue villages and encroacher settlements experiencing the most severe restrictions on land ownership, livelihood opportunities, and access to basic services. The lack of official recognition for many settlements has led to continued displacement, economic insecurity, and social marginalization.

One of the most pressing issues highlighted in the study is the economic vulnerability of forest dwellers. While many communities traditionally relied on forest-based livelihoods such as shifting cultivation, minor forest produce collection, and small-scale agriculture, conservation policies have severely restricted these activities. Additionally, alternative employment opportunities remain limited due to poor infrastructure, lack of educational facilities, and geographical isolation. Government initiatives such as the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) have not been

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effectively implemented in these regions, leaving many households without stable income sources.

The study further examines the critical gaps in access to education and healthcare among forest-dwelling communities. Many villages lack proper educational institutions, leading to high illiteracy rates and limited socio-economic mobility. The absence of healthcare facilities exacerbates health issues, particularly among women and children. Lack of proper sanitation, malnutrition, and inadequate medical attention contribute to poor health outcomes, reinforcing the cycle of poverty and marginalization.

A major finding of this study is the conflict between conservation efforts and the rights of forest dwellers. While environmental protection is essential, the exclusionary approach adopted by authorities has resulted in forced evictions, loss of traditional livelihoods, and increased tensions between state agencies and local communities. Conservation policies often fail to incorporate the knowledge and sustainable practices of indigenous populations, despite evidence that community-led conservation efforts can be highly effective. The study suggests that a more participatory approach, involving forest dwellers in decision-making and management of resources, could lead to better conservation outcomes while protecting their fundamental rights.

The role of governance and legal mechanisms in protecting the rights of forest dwellers is critically analyzed in the study. While the Forest Rights Act of 2006 was enacted to address past injustices, its implementation in Assam has been inconsistent. Many eligible communities have been unable to claim their rights due to stringent documentation requirements and administrative reluctance. The division between Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs) has further complicated the situation, as many non-tribal communities have been excluded from legal recognition despite their long-standing presence in forest areas. The study calls for legal reforms that simplify the process of recognizing forest rights and ensure that all eligible communities' benefit from protective legislation.

Political and social conflicts within forest communities are another significant concern identified in the study. The classification of forest dwellers into legal and illegal categories has led to internal divisions and social tensions. Additionally, state interventions and external influences have sometimes exacerbated conflicts among different groups, undermining community solidarity. The study

emphasizes the need for conflict resolution mechanisms that are inclusive, transparent, and sensitive to local socio-cultural dynamics.

The study also highlights the impact of climate change on forest dwellers. Changing weather patterns, deforestation, and depletion of natural resources have made traditional ways of living increasingly difficult. Frequent floods, soil erosion, and declining agricultural productivity have forced many communities to migrate or adapt to precarious living conditions.

In terms of policy recommendations, the study advocates for a more inclusive and decentralized approach to forest governance. Strengthening the role of Gram Sabhas, ensuring greater community participation in decision-making, and promoting sustainable livelihood opportunities are essential steps toward securing the rights of forest dwellers. The study also calls for better coordination between government agencies, civil society organizations, and local communities to ensure the effective implementation of forest rights laws.

Another crucial recommendation is the need for improved access to education and healthcare. Establishing more schools, providing vocational training programs, and ensuring healthcare facilities in remote areas can significantly enhance the well-being and empowerment of forest-dwelling communities. Special focus should be given to women and children, who are often the most vulnerable within these communities.

The study further suggests revising conservation policies to adopt a more community-centric approach. Recognizing the traditional ecological knowledge of forest dwellers and integrating it into conservation strategies can lead to more effective and sustainable environmental management. Additionally, policies should focus on providing alternative livelihood options that do not compromise the rights or cultural identities of these communities.

The study underscores the need for a balanced approach that respects both environmental conservation and the fundamental rights of indigenous and forest-dependent populations. The findings call for urgent policy reforms, greater community involvement in forest governance, and improved socio-economic interventions to ensure justice and sustainability for Assam's Forest dwellers. Addressing these issues holistically, with a focus on legal empowerment, socio-economic development, and participatory conservation, will be key to creating a more just and sustainable future for these communities.

5.1. Major Findings

The major findings of the study can be highlighted in the following manner:

- i. The traditional forest-dwelling communities have faced historical injustice due to the conservation-oriented commercial forest policies and such marginalization continued even after independence as a result of political factors associated with demographic settlements.
- ii. The contemporary forest policies themselves put a biggest threat towards the human rights of the traditional forest dwellers.
- iii. Even though the contemporary policies aim at achieving community participation in sustainable forestry and enhancing the strength of traditional knowledge, it has failed to address the heterogeneity existing within the traditional communities and treated them as a single homogenous group to be regulated through a unique but common system of administration.
- iv. The traditional institution has been degenerated causing a loss of traditional knowledge about natural resource management.
- v. Lack of documentation of forest boundaries, resources, rights of the forest dwellers, and the period of settlement have resulted into conflicts between encroachers and legal beneficiaries of the community-oriented policies.
- vi. Conservation Policies focus on a people-free zone approach while it is globally accepted that forests cannot be protected in isolation nor it can benefit sustainable utilization without improving the status of the local communities.
- vii. In Assam, the Forest Rights Act has been enforced uniformly like in all other parts of the country without giving full recognition to the unique situations prevailing in Assam.
- viii. The distinction between Scheduled Tribes and Other Traditional Forest Dwellers in Assam is vague since OTFDs and STs have no basic differences concerning socio-economic and period of settlement.
- ix. Illegal immigration and the associated vote bank policies are the biggest threat to the realization of benefits for the local Assamese Forest-Dwelling communities.
- x. The reserved forest areas lack adequate infrastructure for securing the human rights of the forest dwellers.

5.3. Recommendations

Based on the findings the following recommendations are made:

- vi. Immediate demarcation of the forest boundaries shall be made and the residents of the protected areas shall be rehabilitated to the buffer zones.
- vii. The period of 75 years as required for the OTFDs to claim forest rights under the FRA Act, 2006 shall be reduced to 1980 so that it prevents any sort of discrimination between the STs and the OTFDs and also the period suggested by the Citizenship Act will conform.
- viii. Higher autonomy shall be provided to those who are proven beneficiaries under the FR Act, 2006 to manage the forest resources and regulatory agencies should be strictly instituted to monitor the compliance to their duties in exchange for the rights they enjoy.
- ix. To minimize the non-forestry activities inside the protected forest areas and to facilitate better infrastructure for the forest dwellers, the forest dwellers residing inside such areas shall be rehabilitated to the buffer zones and shall enable them to access the infrastructure of the civil administration at their convenience.
- x. Policy should be enacted to check the encroachments by illegal immigrants and to reduce the vote bank influences.

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