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Dated Shillong, the 4<sup>th</sup> March, 2014

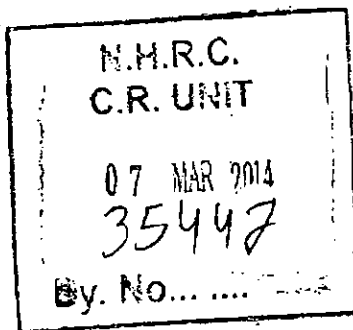
To: Deputy Registrar (Law)  
National Human Rights Commission  
(Law Division/Full Commission Branch)  
Manav Adhikar Bhawan, Block-'C', GPO Complex  
(Behind INA Market), New Delhi 110023

DR-2  
Sub: Complaint received from Shri. Tejan Chakma, Coordinator of 'Asian Centre for Human Rights' alleging that a total of 1143 families, have been evicted by the forest officials from Lunsun forest area under Bismuri Police Station, Kokrajhar District, Assam on 30.10.2010

Ref: **Case No. 297/3/11/2010/FC dt. 06/12/2013**

Sir,

Enclosed please find my fifteen-page Report on the above-mentioned subject. Along with the report, I have attached Annexures, numbered 'A' to 'S'.



Yours faithfully,

(Shri. Anil Pradhan, IPS (Retd.))

Encl: As stated above

**Case No. 297/3/11/2010/FC (Law Division/Full Commission Bench)**  
**Lungsun Forest Area under Bismuri Police Station, Kokrajhar district,**  
**Assam**

As directed by the National Human Rights Commission, New Delhi, vide Case No. 297/3/11/2010/FC dated 09/12/2013, I carried out a verification process into the complaint received from Shri. Tejang Chakma, Coordinator of 'Asian Centre for Human Rights (ACHR), New Delhi. The ACHR had alleged that around 1,143 families were evicted from Lungsun Forest Area, under Bismuri Police Station, Kokrajhar district, Assam on 30/10/2010.

Accordingly, I proceed to Kokrajhar town, the district headquarters of Kokrajhar district on 17/02/2014. After a night's halt, I proceeded to the place of occurrence (PO) on 18/02/2014 along with Shri. Hiranya Sarma, IFS, DFO, Haltugaon Division, Dr. Ramesh C, IFS, erstwhile DFO, Haltugaon Division, Shri. Prashant Dhanda, IFS, Asst. Conservator of Forests, Shri. Raju Kumar Brahma, AFS, Asst. Conservator of Forests, other officials and staff.

The area is at a distance of 42 kms from Kokrajhar town. Nearly half the journey was along the National Highway, so the road was good. Thereafter, there is an abrupt right turn into Haltugaon Forest Division, where the road turns into a dirt track. However, it the PWD is now converting this road into a macadamised one. Another sharp right turn after about 10 kms on the dirt track and we entered the outskirts of the PO. There was ample police presence in the area as the threat from the militant outfits was real.

When I reached the PO, I could see mud-built houses with thatch roof all around. I stopped at a clearing next to a mud-built school. The School Teacher, Shri. Bonipas Tudu, came out and greeted us. About 30/35 young boys and girls, all students, also came out. After reassuring him that we had not come for any eviction or ejection drive but only to ascertain what had happened on October 30 and 31, 2010, he relaxed. When I asked him in Assamese if he had any papers to prove he had been staying in this forest for decades, he said his father was in Jayper Relief Camp and that he himself had come to this forest area in 1996.

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Through him, we were able to talk to at least 20 (twenty) people of the area as the people did not understand either Hindi or Assamese – only their own language. The list of these people is at **Annexure 'A'**. All of them stated that they had no documents of any kind to show that they had been living in Lungsun Forest Area for decades. All of them admitted, quite candidly, that they had occupied forest land after the ethnic riots of 1996 and 1998. All of them were Adivasis. When I asked them about the burn injuries to the baby, Mangal Hembrom and where the mother or father, Shri. Kishun Hembrom were, they said that they had heard about the burn injuries but had not seen the incident. They also said that the mother was around but could not be produced immediately. When I questioned them about who had set fire to their dwelling houses on the day of eviction, all the men said they were not present at the PO on that day while the women claimed that the forest officials had burnt their houses. When I turned to the forest officials present, they denied any hand in setting fire to the houses on the day of the eviction drive.

After talking to them at length, I informed them that the next day (19/02/2014), I would be available at Dighelipar Forest Camp, Bismuri, under Gaurang Range, about 5 kms on the 'katcha' road from 9 am onwards. They were to bring any document to prove that they had settled in this forest area for decades. Also, I specifically asked them to bring the mother and the father of the child who was burnt. I then left the PO around 2.30 pm as advised by the Forest officials owing to the threat from the militants.

On 19/02/2014 I arrived at Dighelipar Forest Camp, along with the same set of officials before 9 am. We waited there till 10.00 am but there was no sign of any of the villagers whom I have meet yesterday. Finally, around 10.30 am, a few headmen landed up. As I was talking to them, a few more villagers came. The list of these 9 (nine) people is at **Annexure 'B'**. Of them, the first two are village headmen while the third is a school teacher. Once again, when I asked them for any paper or document to prove that they had been staying in Lungsun Forest Area for decades, they had none. All of them told me quite clearly that had come from

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different places to these areas only a few years back. When I asked them about the mother and father of the child who received burn injuries, they could not produce them. Photographs of the area and of the people are at **Annexure 'C'**.

Prior to the eviction carried out by the Forest Department at Lungsun and Laopani Block under Chirang Reserve Forest of Haltugaon Forest Division on October 30 and 31, 2010 and on November 3, 2010, Eviction Notices were put up by the forest officials (**Annexure 'D'**). An English Translation is also enclosed. The eviction was carried out under the supervision of Shri. Bipul Saikia, ACS, Circle Officer and Executive Magistrate Kokrajhar. His detailment order, signed by the Deputy Commission, Kokrajhar, is at **Annexure 'E'**.

The cleared area was then handed over to the 135<sup>th</sup> TA Ecological Task Force (ETF) for protection and for afforestation. However, on November 22<sup>nd</sup>, 2010 when Forest Staff and the ETF went for a joint patrolling to ascertain the position of the cleared area, they found that the Adivasis had re-entered the entire area and re-claimed the land. Also, a few miscreants were caught red-handed when they were sawing freshly-felled trees. In this connection, 3 (three) persons were arrested. As the patrolling party was returning to their base camp, they were attacked by the encroachers, leading to the patrolling party firing 3 (three) rounds in the air in self defence to disperse the mob. This was reported by the DFO, Haltugaon Division to the Deputy Commissioner vide Letter No. B/16/Encroachment/2010/3451-53(A) dt. 23<sup>rd</sup> November, 2010, sent along with the Case Records.

A lot of hue and cry was generated following these eviction drives. These necessitated a Magisterial Enquiry which was duly conducted by Shri. A.K. Brahma, ACS, Additional Deputy Commissioner, Kokrajhar. The magisterial enquiry was duly forwarded on 21/12/2010 to the Government of Assam, Home and Political Depts. by the Deputy Commissioner, Kokrajhar, who agreed with the findings of the Enquiry Officer. The operative parts of the Magisterial Enquiry (**Annexure 'F'**) are as follows:

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"2. The forest land under encroachers at Lungsung and Laopani had been thick jungle with heavy trees. I had found many valuable trees felling by the unscrupulous/timber smugglers within Lungsung Block.

3. The encroachers at Lungsung and Laopani are mostly landless and displace person. Many of these persons are from relief camps. Some encroachers have their own land in established villages. They are in search of additional land. So they have encroached the forest land.

4. Each encroacher have been found encroaching a minimum of 12 bighas of forest land.

5. Each encroacher's dwelling hut is made up of polythene roofing, fencing of side wall with locally available material, with approximate measurement of 7'X9'X6'.30" sq. feet temporary structure.

6. All the huts are scattered throughout the vast area of the encroached land.

7. The encroached forest land of Lungsung have been found with standing mustard oil crop. No damage to the crop is seen.

8. Felling of many trees of approximate measurement of 7' to 9' round and 15' to 22' length around the encroached area have been seen. One person was apprehended red handed for alleged felling of trees with a total group of 17 persons during my visit at Lungsung. Others managed to escape.

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9. The encroachers seems in the increasing day by day resulting extensive destruction of forest resource towards west and north of Lungsun block which is still covered with heavy trees.

10. While interacting with women found on the spot, it was stated by those women is simplicity that their all huts were burnt by the Forest Deptt. So, burning of the some huts if not all by the Forest Deptt. in the eviction operation cannot be ruled out. Some wooden poles used for raising the huts have been found burnt sign. The encroachers are still living in their huts with cattle, pig and other belongings”.

A joint memorandum (**Annexure 'G'**) was submitted to Shri. P. A. Chidambaram, the-then Home Minister of India, on December 3, 2010 by the All Adivasi Student Association of Assam (AASAA), Adivasi Cobra Military of Assam (ACMA), Birsas Commando Force (BCF) and the Adivasi Sewa Samity (ASS). In it, they have demanded Schedule Tribe status to the Adivasis residing in Assam and have admitted (Page 19) that they have shifted to Lungsun Forest Area only recently. This memorandum was forwarded to the Hon'ble Prime Minister of India on 8/12/2010 by Shri. Maulana Badruddin Ajmal, Member of Parliament, Lok Sabha. The relevant part in the joint memorandum (Page 19) is:

“That Sir/Madam, it is notable that the Adivasi (Santal & Oraon) community people have been living in Lungsun Forest Block area since 1960s. The Adivasi and Bodo people were evicted in 1977 from said area. The district administration rehabilitated Bodo people in different place in Kokrajhar district but Adivasi people were remained in adjacent villages of the said area. In course of time the Adivasi people again went back to Lungsun forest area and settled down. Again in July/1996 these Adivasi people were driven out from the said area by Bodo extremists and took shelter in different relief camps. But due to improper relief grant provided by the Government i.e., 400 grams rice

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only for 10 days in a month, these people could not survive as human and again went back to the said area for cultivation to earn their livelihood and settled down there".

Under the 'Scheduled Tribes and Other Traditional Forest Dwellers (Recognitions of Forest Right Act, 2006)', notified in the Gazette of India, Extraordinary, on 31/12/2007, Section 3 (c) defines "Forest dwelling Scheduled Tribe" as,

"Member or community of the Scheduled Tribes who primarily reside in and who depend on the Forest or Forests lands for bona fide livelihood needs and includes the Scheduled Tribes pastoralist".

Also section 3 (o) defines "others traditional Forest dwellers" as,

"any member or community who has for at least three generations prior to the 13<sup>th</sup> day of December, 2005 primarily resided in and who depend on the forest or forests land for bona fide livelihood needs".

Explanation- For the purpose of this clause, "generation" means a period comprising of twenty five years".

The fact that such groups of people are not covered under Section 3 (c) and Section 3 (o) of the 'Scheduled Tribes and Other Traditional Forest Dwellers (Recognitions of Forest Right Act, 2006)', was decided by the Guwahati High Court on 22<sup>nd</sup> of October, 2009 in WP(C), 5043/08 and WP(C), 3840/08. These cases refer to the claim of the Bodos residing in the Saralpara and Ultapani areas of Haltugaon Forest Division that they are Scheduled Tribe members and are forest dwellers. **Both these areas are about 15 to 20 kms north of Lungsun area.**

The operative parts of the Judgment and Order (**Annexure 'H'**) are:

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"17. From a close scrutiny of the relevant provision of the Act, it transpires that in order to claim the forest rights as contained in Section 3 of the Act and for recognition of such rights as contained in Section 4 of the Act, a person must fall within the category of such person under the definition as contained in 5.2 (c) and 5.2 (o) of the Act. But in the averments made in this two writ petitions and the counter affidavits as well as other documents made available before me, do not disclose that the petitioners falls within the aforesaid category of persons as defined under Section 2 (c) and 2 (o) of the Act.

18. The necessary conditions precedent for recognition of the rights under the Act as "forest dwellers" as contained in Section 3 of the Act not having been fulfilled by the petitioners, they could not satisfy their claims as "forest dwelling Scheduled Tribes" or "other traditional forest dwellers" within the meaning of the Act. In such a situation, the recognition of their rights under Section 4 of the Act does not arise.

19. The petitioners being found encroachers of the forest land, actions of the authorities in taking necessary steps for their eviction, from such forest land cannot be termed as illegal or without jurisdiction and accordingly no interference is called for against such action of the authority. No declaration under Section 3 and 4 of the Act can be given of the petitioners, on the basis of the proved facts of the case".

Not satisfied with the rulings of the Single Bench, Gauhati High Court, a Writ Petition (Case No. WA 351/2009) was filed in Gauhati High Court. A Double Bench Judgment on 20/05/2010, while upholding the Single Bench Judgment, dismissed the Writ Petition (**Annexure 'I'**). The operative part reads:

"The argument advanced by Shri. Dasgupta, learned counsel for the appellants with regard to the scheme for determination of forest rights

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under the Act of 2006 and the Rules framed thereunder proceeds on an assumption that the petitioners are either "forest dwelling Scheduled Tribe" within the meaning of Section 2 (c) of the Act or "other traditional forest dweller" within the meaning of Section 2 (o) of the Act of 2006. Even if the Court is to proceed on the said assumption, the material laid down before the court by Shri. P.S. Deka, learned Government Advocates, Assam indicate that the bodies, contemplated by the Act of 2006 to make the necessary determination are not yet in existence. Shri. Dasgupta, therefore, has submitted that a direction should be issued to the State to constitute the said bodies. Not only the appellants-petitioners would not be entitled to the said direction as they have failed to establish that they are either "forest dwelling Scheduled Tribe" or "other traditional forest dweller", even otherwise, the court would not be inclined to issue any such direction inasmuch as the appellants had not in either of the writ petitions, prayed for such a direction. It is not the appellants' case in either of the writ petitions that the bodies contemplated by the Act are not in existence and, therefore, State Government should be directed to constitute the said bodies.

Consequently and in the light of foregoing discussions, we do not find any merit in this writ appeal. The writ appeal is consequently dismissed. However, in the fact and circumstances of the case, we make no order as to costs."

These two judgements of the Gauhati High Court, to my mind, decides the present case as the two places, Saralpara and Lungsun, fall within the same Haltugaon Forest Division, separated as they are by a distance of 15/20 kms. This Division consists of 5 (five) Ranges and 13 (thirteen) Blocks, viz.,

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1. Ultapani Range (Saralpara Block, Ultapani Block, Dholpani Block, Laopani Block, Khungriang Block and Bhur Block).
2. Jharbari Range (Khalasi Block and Sanuka Block).
3. Gurang Range (Lungsun Block, Maligaon Block, Bashbari Block, Haltugaon Block and Amguri Block).
4. Nayek Range.

From May, 1949 to January 1967 as many as 25 (twenty five) forests villagers were notified by the Government of Assam. All these forest villagers were created under Haltugaon Division, Kokrajhar. This list is at **Annexure 'J'**. In this list also, Lungsun village does not find an entry.

In the other areas of Chirang Reserve Forest under Haltugaon Forest Division, as many as 18 (eighteen) eviction drives were carried out between January, 2005 and March, 2010. The names of the Blocks where such evictions were carried out are, Saralpara (12 times), Lungsung (3 times), Khungriang (1 time), Khalashi (1 time) Laopani (1 time). The communities whose houses were demolished and family evicted were Rabhas, Nepalese, Bodos and Adivasis. List of these evictions is at **Annexure 'K'** while **Annexure 'L'** contains 17 (seventeen) pages of photos showing the entire process of the October and November, 2010 evictions.

Even after the October 2010 eviction drive by the Forest Department, the Adivasis have re-encroached the land and are staying there. Illegal felling of trees and encroachment in the forest area continues. Seeing no alternative, the Forest Department undertook a survey of all encroachment in the Chirang Reserve Forest during May-June, 2011. In the survey, the following details were incorporated:

1. Photograph of each family in front of their temporary huts.
2. GPS reading of each hutment.
3. Family Details.
4. Signature of Volunteer, Village headman and forest staff in the survey sheets.

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This entire survey is computerised and kept in two different documents. One document contains photographs of the occupants as well, while the other is without photographs. A hard copy also exists. This was conveyed by the Principal Secretary, Bodo Land Territorial Council, Kokrajhar, to the Government of Assam on 29/10/2011 (**Annexure 'M'**). The relevant portion reads:

"Para (x) As per decision taken during departmental meeting in BTC on 07-05-2011, the survey of the encroached areas & villages in Ripu Reserve P.R.F. under Haltugaon Division have been entrusted to DFO, Haltugaon Division. The survey is under process and it is expected that the task will be completed within a few days. In this census/survey all encroached villages are being covered including the evicted villages/families of Lungsun and Laopani Forest Block."

During May to July, 2013, the area was re-surveyed and re-verified to weed out fresh encroachers.

Regarding the burn injuries on the baby, Mangal Hembrom, aged 2½ years, the facts are, the case was registered vide Kokrajhar PS Case No. 22/11 u/s 143/436/326/304(A) IPC. This case was registered after an FIR was lodged on 24/01/2011 by Shri. Kishun Hembrom the father of the child. In his FIR, he has mentioned that on 31/10/2010 a group of forest officials, under the direction of BTC authority, conducted an eviction drive. During this process, his child who was sleeping on the bed, sustained burn injuries. On 06/11/2010, he admitted his child in RNB Civil Hospital Kokrajhar. The doctors there, on the fifth day, discharged the child and referred him "to higher centre" on 11/11/2010. However, more than 2 (two) months later, on 23/01/2011, his child died.

In the Post Mortem Report, the Medical and Health Officer, RNB Civil Hospital, Kokrajhar, has opined that, "in my opinion the cause of death is due to septicemia

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following burn over the scalp and throughout the body". The FIR, the Inquest Report, the Post Mortem Report and the English translation of the FIR, are at **Annexure 'N'**. A report from the Chief Conservator of Forest, Bodoland Territorial Council, Kokrajhar, to the Government of Assam, on the burn injuries of the baby, is at **Annexure 'O'**.

A report on this case from the Superintendent of Police, Kokrajhar, to the Government of Assam on 6/6/2011, stating that the case is pending for further investigation is at **Annexure 'P'**. Also, the medical treatment report rendered to the baby and signed by the Superintendent, RNB Civil Hospital, Kokrajhar, is at **Annexure 'Q'**. In it, the Superintendent has mentioned that the baby was referred to higher centre on 11/11/2010. On 18/05/2012, the Additional Superintendent of Police (Hqs), Kokrajhar, gave a Supervision Note (**Annexure 'R'**) to the Investigating Officer (I/O). Even on the day of my visit (17/02/2014), the case was pending investigation.

A map of the area is at **Annexure 'S'**.

**CONCLUSION:**

Two letters have been addressed to the NHRC by the ACHR. The first one is dated 12/11/2010 while the second one is dated 03/05/2011. The main points are:

1. 400 houses of 53 villages were burnt by the eviction team on Oct. 30<sup>th</sup> and 31<sup>st</sup>, 2010.
2. No eviction notice was served by the authorities.
3. Only Adivasis were evicted but not the Nepalis and the Bodos.
4. There was a total disregard for human lives and human rights.
5. The eviction team consisted of Bodo youth.
6. Paddy, rice and other properties were destroyed.

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7. 9 primary schools, 1 manjhi than (place of worship), 6 churches and 7 lakhi mandirs were set ablaze.
8. The Adivasis were threatened while the women were molested and children suffered burn injuries.
9. 5,975 Adivasis from 1,143 families were evicted without any alternate arrangements.
- 10.33 Adivasis were arrested and sent to Kokrajhar jail.
11. The Adivasis have been living in Lungsung forest since 1964 and are covered by the Forest Rights Act, 2006.
12. Baby Hebram succumbed to his burn injuries.
13. There is no forest in Lungsung area from where Adivasis were evicted.

As both sides, the affected people and the Forest Department officials, take opposite stands on the issue of **burning of dwelling houses**, one is inclined to go by the Magisterial Report (Para 10 of **Annexure 'F'**), "So, burning of the some huts if not all by the Forest Deptt. in the eviction operation cannot be ruled out."

As evidenced by **Annexure 'C'**, **Eviction Notices** were displayed by the Forest Deptt. Prior to the eviction drive. This was done on 13/10/2010, 17 days ahead of the eviction drive date.

As reported by the DFO, Haltugaon Division in his report to the Deputy Commissioner, Kokrajhar vide Letter No. B/16/I/Ejection/3287-88 dt. 04/11/2010, sent along with the Case Record, not just **Adivasis, but even Bodos, Nepalis, Santhals, Garos and Rabhas, were evicted** as per the following figures:

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Block	Date	Community	Number of families evicted
Lungsung	30/10/2010	Adivasis	490
	31/10/2010	Bodo	40
		Adivasis	470
Laopani	03/11/2010	Bodos	500

There does not appear to be any **dis-regard for human lives and for human rights** during the eviction drive. There was no loss of any human lives which may be directly attributable to the ejection. All the people I met did not talk of any death due to the eviction drive. The case of Mangal Hembrom, aged 2½ years, will be dealt with in a subsequent paragraph. On the day of the eviction drive, time was given to the inhabitants to take out their belongings from their make-shift houses before these were demolished.

The eviction drive consisted of Forest officials, Forest staff, Police, women police, women forest staff and the Magistrate on duty. There is **no evidence to suggest that Bodo youth were part of the eviction team or that paddy, rice and other properties were destroyed or that 9 primary schools, 1 manjhi than (place of worship), 6 churches and 7 lakhi mandirs were set ablaze**. The Magisterial Report is also silent on these aspects.

Similarly, the **allegation that the Adivasis were threatened, the women molested and the children suffered burn injuries, cannot be substantiated**. Not only were women police present at the spot but also the women forest staff and the Magistrate on duty. Also, there is no molestation or burn injury case registered in Kokrajhar Police Station (Bismuri is the Police Outpost) immediately following the eviction drive.

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It is **correct to state that 33 Adivasis were arrested** and sent to Kokrajhar jail following the eviction drive. This was done in the presence of the Magistrate on duty. The details of the case are:

1. Forest Offence No. Memo No. HP/4/63-64 dated 31.10.2010
2. Number of person arrested: 33
3. Section of Law: Sec.24, 25 of Assam Forest Regulation NO. VII of 1891
4. Date of Arrest: 30.10.2010
5. Date of release of arrested persons: 23rd & 26th of November 2010
6. Status of case: Trial pending. Next hearing on 26.03.2014
7. Court Case No. CR 890/10 in the court of Judicial Magistrate, Kokrajhar

The contention that the **Adivasis have been living in Lungsung forest since 1964** and are covered by the Forest Rights Act, 2006, has been settled by the Single Bench judgement of the Gauhati High Court on 22/10/2009. On appeal, the Double Bench upheld the Single Bench judgement of the Gauhati High Court on 20/05/2010. When I asked them for any document or proof to substantiate their claim, they could not produce any.

The following points regarding the **death of Mangal Hembrom**, aged 2½ years, are noteworthy owing to the time gap between the incident and the admission of the baby to the hospital and again from the time gap between the referral to a higher centre and the death of the child.

Date of incident:	31/10/2010
Date of Admission to Hospital:	06/11/2010 (5 days later)
Date of reference to higher centre by RNP Hospital:	11/11/2010
Date of death of the baby:	23/01/2011 (2months, 12 days later)

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In this connection, Kokrajhar PS Case No. 22/11 u/s 143/436/326/304(A) IPC is pending investigation.

It may not be totally correct to say that there is **no forest in Lungsung area** from where Adivasis were evicted. Local Forest officials who have lived and worked in that area since long, remember the entire area as one big forest. The satellite photos procured from C-DAC, Pune (**Annexure 'C'**), attest to the fact that gradual de-forestation is taking place since a few decades back. Finally, this area does not find mention in the list of 25 (twenty five) forests villagers notified between May, 1949 and January 1967 by the Government of Assam (**Annexure 'J'**).

The present situation in the area is the same as was obtaining prior to the eviction drive of October 30<sup>th</sup> and 31<sup>st</sup>, 2010 and November, 3<sup>rd</sup> 2010. The people who were evicted have returned and are now living there, cultivating the cleared forest area. Schools have been re-built, students are attending classes, ploughing of the fields and harvesting is a routine matter and life is going on normally. This is borne out by the photographs of the area in **Annexure 'C'**. The survey carried out by the Forest Department during May-June, 2011 and communicated to the Government of Assam (**Annexure 'M'**), may be indicative of the futility of carrying out any fresh eviction drive in the area. As such, the question of re-location of these Adivasis from this area may not arise.



04/03/2014

(Shri. A. Pradhan, IPS (Retd))

Special Rapporteur, NE Zone, NHRC

**Annexure 'A'**

**Met on 17/02/1014:**

1. Bonipas Tudu, 35 yrs, School Teacher, Village: Jamanpur
2. Gopiram Madhesa, 85 yrs (??), Village: Jamanpur
3. Mrs. Lili Hasda, W/O Sukol Mardi
4. Morhai Hambrom, 40 yrs, S/O Som Hambrom, Jhamelapur
5. Mirja Hasda, 45 yrs, Village Headman
6. Rabika Mardi, 22 yrs, W/O Ringta Tudu
7. Peria Mutmu, 25 yrs, W/O Bijay Kiska
8. Nili Hasda, 24 yrs, W/O Sukol Mard
9. Albira Mardi, 23 yrs, W/O Badan Hasda
10. Kanduni Murmi, 23 yrs, W/O Bonipus Tudu
11. Budhimi Mardi, 30 yrs, W/O Badan Soren
12. Sushila Min, 30 yrs, W/O Raphel Baik
13. Malali Hasda, 20 yrs, W/O Mangal Murmu
14. Chuni Murmu, 30 yrs, W/O Ram Hasda
15. Pramila Tudu, 30 yrs, W/O Singraya Soren
16. Sukol Mardi, Teacher, S/O Bale Mardi of Sagenpur Village.
17. Arjun Hasda, 50 yrs, S/O Lada Hasda
18. Marha Hasda, 40 yrs, S/O Som Hasda
19. Omen Bada, S/O Sonaram Bada
20. Jaghan Mardi, 35 yrs, S/O Pandu Mardi

**Annexure 'B'**

**Met on 18/02/1014:**

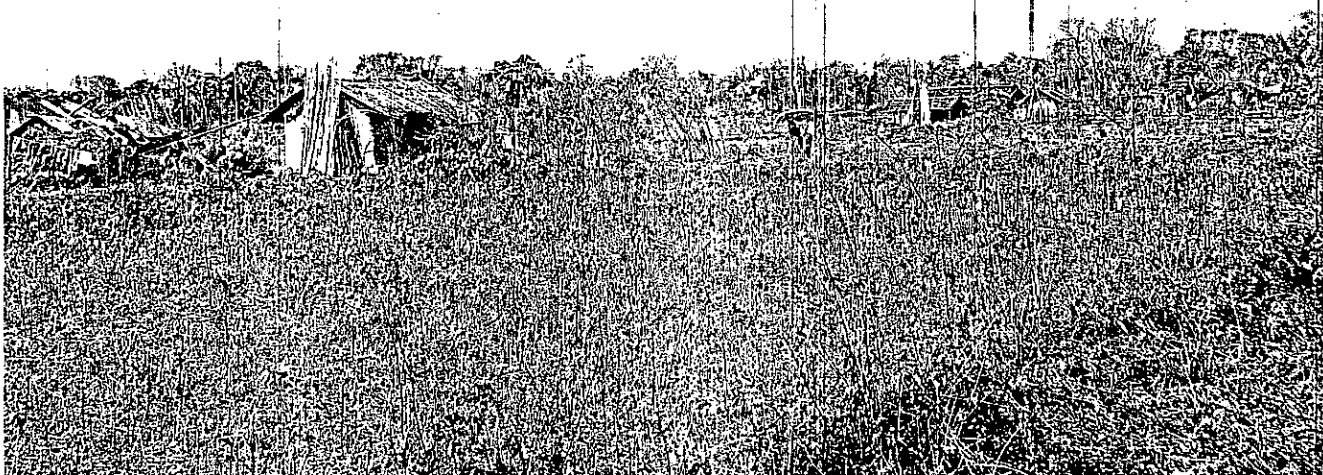
1. Mandal Hasda, 35 yrs, S/O Late Jedo Hasda
2. Mirja Hasda, 65 yrs, S/O Late Babulal Hasda
3. Manoj Mardi, 35 yrs, S/O Shri. Sukol Mardi, Village Amritpur
4. Hopna Hambrom, 35 yrs, S/O Lacha Hambron, Village Pargana
5. Sukol Mardi, S/O Bali Mardi, Village Sagenpur
6. Sonatan Murmu, 28 yrs, S/O Bimal Murmu, Village Sagenpur
7. Danial Bara, 48 yrs, S/O Markis Bara, Village Salbari
8. Danbu Tudu, 48 yrs, S/O Birsing Tudu, Village: Majhipara
9. Manik Soren, 35 yrs, S/O Lakhon Soren, Village: Salbari

4108

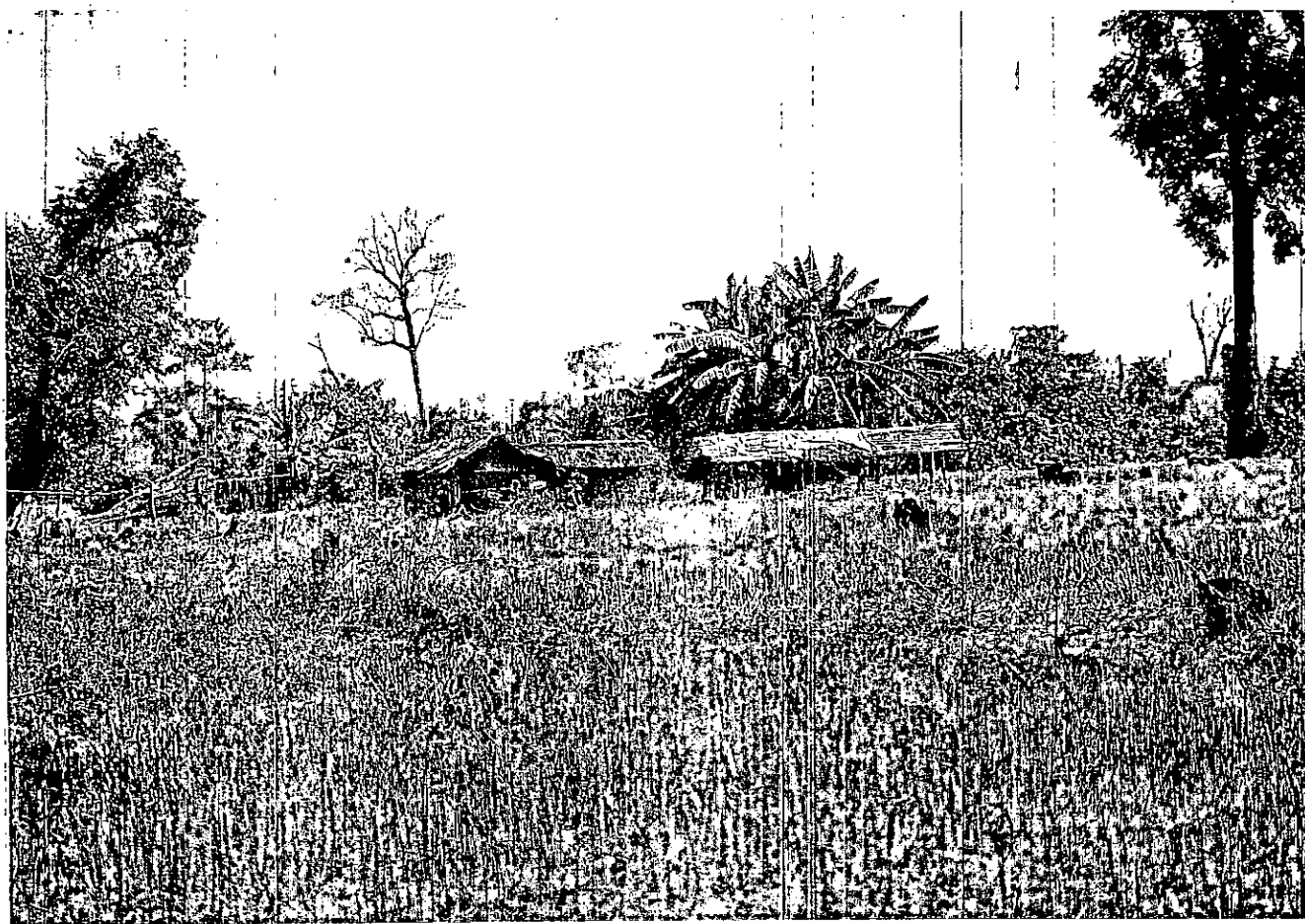
Annexure 'C'

1

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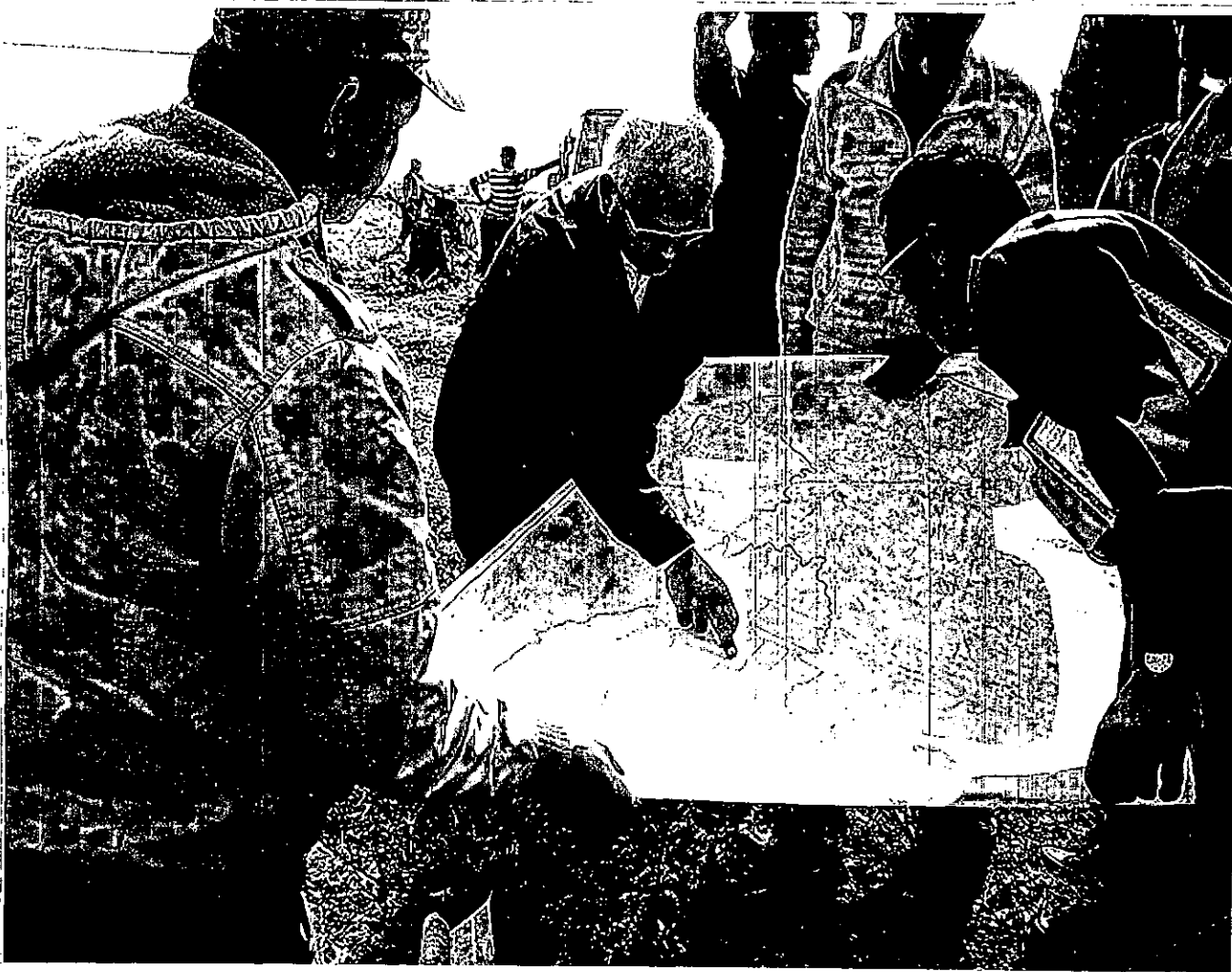
2

409

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3



4

(410)

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(8)

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1c

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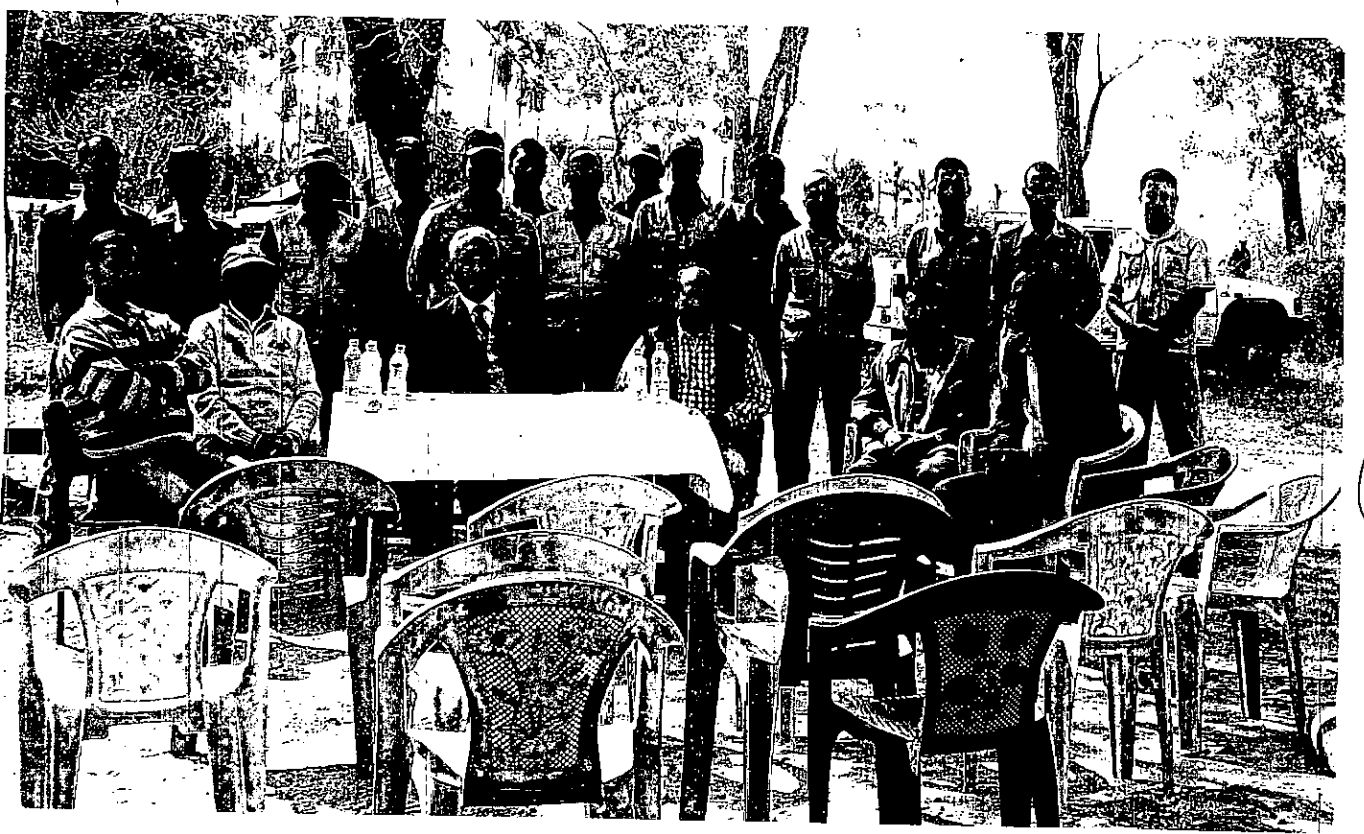
12

4114

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13



14

(415)

# NOTICE

It is hereby informed that those who have illegally occupied forest land are directed to leave the illegally occupied land with their properties within one week from the date of notification. Necessary action will be taken as per departmental rule.

Divisional Forest Officer  
Haltugaon Forest Division  
BTC (Assam)

Dated: 13/10/2010

Encl. of ANNEXURE A

(416) :- জাননী :-

ৱাৰ দ্বাৰা বন সংৰক্ষিত বনাঞ্চলত বেদখল কৰি বসবাস কৰি থকা  
বেদখলকৰী সকলক জনোৱা হয়, যে, জাননী দিয়াৰ এসপ্তাহৰ ভিতৰত  
বেদখলৰ পৰা নিজৰ সা-সম্পত্তি সহ ওলাই গুচি যাবলৈ জনোৱা হ'ল।  
অন্যথা বিভাগীয় বিধি অনুসৰি বিহিত ব্যবস্থা লোৱা হ'ব।

Certified to be  
true copy  
LIC, Bishmūn P.P.  
P.S. & Dist- Kokrajhar  
18/11/20

তাৰিখ ১৮/১১/২০২০

বন সংমন্ডলিক বিষয়া

ইল্টুগাওঁ বন সংমন্ডল, কোকৰাঝাৰ  
বি,টি,চি (অসম)

(417)

GOVERNMENT OF ASSAM  
OFFICE OF THE DEPUTY COMMISSIONER  
KOKRAJHAR

No.KRC/ENC-5/2002/Pt-I/186

Dated, Kokrajhar the 27<sup>th</sup> October, 2010

O R D E R

Sri Bipul Saikia, ACS, Circle Officer & Executive Magistrate, Kokrajhar is hereby detailed for maintenance of law & order during the proposed eviction operation to be taken up on and from 28/10/2010 to 30/10/2010 in Chirang R.F. under Haltugaon Forest Division. The Executive Magistrate concerned is directed to keep liaison with the concerned Forest officials.

SD/-  
Deputy Commissioner, i/c  
Kokrajhar

Memo NoKRC/ENC-5/2002/Pt-I/186-A      Dated - 27/10/2010

Copy to :-

- 1) The Superintendent of Police, Kokrajhar.
- ✓ 2) The Divisional Forest Officer, Haltugaon Division, Kokrajhar with reference to his letter No.B/16/Enc./06-07/3180-83, Dated, 13/10/2010
- 3) Sri Bipul Saikia, Circle Officer & Executive Magistrate, Kokrajhar for information and necessary action.
- 4) The Nazarat Officer, DC's office, Kokrajhar.

N2/-  
27/10/10  
Deputy Commissioner, i/c  
Kokrajhar

*rtified to be  
true copy*

*Dr. G.*  
I/C, Bishmuri P.P.  
P.S. & Dist- Kokrajhar  
Date 18/12/14

(418)

**GOVERNMENT OF ASSAM**  
**OFFICE OF THE DEPUTY COMMISSIONER**  
**KOKRAJHAR**

No. KC.26/2001/ 287

Dated, Kokrajhar the 21<sup>st</sup> Dec 2010

To : The Commissioner Secretary to the Govt. of Assam,  
Home and Political Depts.,  
Dispur, Guwahati-6.

Sub : Submission of magisterial enquiry report in connection with eviction operation carried out in Lungsung and Laopani Block under Chirang reserve forest of Haltugaon Forest Division on 30<sup>th</sup> and 31<sup>st</sup> Oct/10 and 3<sup>rd</sup> Nov/10.

Ref : 1) Govt. letter No. PLA.32/2000/409 dated 12.11.2010  
2) This office earlier letter No. KC.16/2010/231 dated 5.11.2010.

Sir,

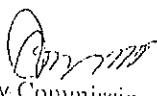
With reference to the subject cited above, I have the honour to state that having sensed some tension and resentment among the people in Lungsung and Laopani R.F. area after eviction operation carried by the Haltugaon Forest Division on 30<sup>th</sup> and 31<sup>st</sup> Oct. 2010 the undersigned ordered a magisterial enquiry to ascertain the ground reality. Sri A.K. Brahma, ACS, Addl. Deputy Commissioner, Kokrajhar has been entrusted to conduct the enquiry.

Accordingly the Inquiry Officer submitted his report and a copy of the same is appended herewith for favour of perusal and necessary action. The issues raised by Hon'ble Member Parliament (Lok Sabha) Sri M. Badruddin Ajmal in this regard was also taken into account during enquiry by the Inquiry Officer.

I agree with the findings of the Inquiry Officer.

Yours faithfully,

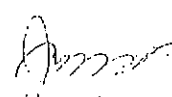
Enclo : As stated above.

  
 Deputy Commissioner,  
 Kokrajhar.  
 Dated - 21.12.2010

Memo No. KC.26/2010/ 287.

(A)

- Copy along with a copy of above report is forwarded to :-
1. The Principal Secretary to the Chief Minister, Assam, Dispur, Guwahati-6. This has reference to this office earlier letter No. KC.16/2010/232 dated 5.11.2010.
  2. The Staff Officer to the Chief Secretary to the Govt. of Assam, Dispur, Guwahati-6. This has reference to this office earlier letter No. KC.16/2010/237 dated 6.11.2010

  
 Deputy Commissioner,  
 Kokrajhar.

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The Deputy Commissioner,  
Kokrajhar.

Submission of magisterial enquiry report on alleged incident during  
eviction operation of encroachers at Lungsung and Laopani.

Ref

Your office Memo No. KC.26/2001/245 (A) dated 20.11.2010 and No.  
KC.26/2001/267 dated 14.12.2010.

Sir,

In pursuance of your order as above for conduct of magisterial enquiry on  
alleged incidents during eviction operation at Lungsung and Laopani on 30<sup>th</sup> and 31<sup>st</sup>  
Oct, 2010 and 3<sup>rd</sup> Nov/2010 respectively, I have heard the forest officials of Haltugaon  
Division including Divisional Forest Officer, Haltugaon Division and the Executive  
Magistrate detailed for law and order in both the area and recorded their statement on  
oath.

Apart from recording the statement of the officials, I personally visited the  
spot of evicted area at Lungsung on 11.12.10 and witnessed the post eviction scene. Some  
women of about 22 years to 56 years of age were found on the spot. Very much afraid of  
our presence with security personnel, the women folk were about to run away to deep  
jungle to hide themselves. Later they were brought into confidants of the purpose of our  
visit and recorded their statement on the spot. No male member were found on the spot.

I tried my best to reach the next evicted spot at Laopani, but due to not  
easily accessible to that place and for want of time I could not reach the spot.

The details of my finding in course of enquiry into the alleged incident  
during eviction operation at Lungsung and Laopani are furnished below for your perusal  
and necessary action.

Witness No.1

Dr. C.Ramesh, Divisional Forest Officer, Haltugaon Division was heard.  
Dr. C.Ramesh stated that as per decision in a meeting with BTC held on 7<sup>th</sup> June, 2010 to  
carry out eviction of all encroachers from the forest land, the eviction at Lungsung and  
Laopani on 30<sup>th</sup> and 31<sup>st</sup> Oct, 2010 and 3<sup>rd</sup> Nov, 2010 respectively were carried out to eject  
all the illegal encroachers from huge areas and to hand over the evicted land to Eco task  
Force for plantation and protection of forest land from re-encroachment. As he stated  
1000 huts at Lungsung and 500 huts at Laopani (all temporary structure with polythene  
roofing and locally available materials) were dismantled as per procedure. He further  
stated that prior notices of eviction were served to all the encroachers by way of sticking  
the notice at conspicuous places, trees as it was found suitable for proper publicity. It  
was stated that no huts of the encroachers were burnt any way rather than dismantling the  
huts, felling the betelnuts trees, papaya trees and other vegetables grown nearby the huts.  
During eviction operation all the male members were not seen on the spot and only  
female persons being present on the spot took out their belongings and other household  
material under their custody. The entire evicted area was stated to be the Sal  
regeneration area and also caused plantation over a plot of 130 hector of forest land under  
different schemes since 2000. The whole Sal regeneration trees and plantation have been  
destroyed by the illegal encroachers. He further stated that those encroachers were very  
new and mostly belongs to relief camps originated from ethnic violence in 1996.

(Exhibit No.1 enclosed)

(Conf'd...../2)

420

Witness No.2

Sri Bipul Saikia, ACS Circle Officer and Executive Magistrate, Kokrajhar was heard. He stated that he was present in both the eviction operation at Lungsung and Laopani on 30<sup>th</sup> and 31<sup>st</sup> Oct, 2010 and 3<sup>rd</sup> Nov, 2010 respectively for maintenance of law and order duty. As he stated there was no unruly situation. Huts were dismantled but not burnt. No lathicharge, no firing had to be exercised. He further stated that 7 persons were arrested for illegal felling of trees at Laopani area while 33 persons were arrested for illegal encroachment into forest land. The Adivashis and Bodo at Lungsung while only Bodo in Laopani have been found.

(Exhibit No.2 enclosed)

Witness No.3

Sri Raja Kumar Brahma, ACF, Haltugaon Division was heard. He stated that no huts at Lungsung and Laopani were burnt during ejection programme on 30<sup>th</sup> and 31<sup>st</sup> Oct, 2010 and 3<sup>rd</sup> Nov, 2010 nor any male and female members were injured during dismantling the huts. He further stated that the encroachers had settled at Lungsung and Laopani since 5/6 years ago after the payment of Rehabilitation Grant to the victimised families of 1996 ethnic violence.

(Exhibit No.3 enclosed)

Witness No.4

Sri Nikhil Ch. Nath, ACF Haltugaon Division was heard. He stated that he was present on the spot at the time of eviction of the encroachers in both the places of Lungsung and Laopani. He stated that no huts were burnt. The huts were dismantled only after proper announcement by megaphone to leave the reserve forest with belongings. He further stated that most of the encroachers had taken their belongings and other household materials before dismantling them by the Forest Deptt. Mostly Adivashis and few Bodos had settled at Lungsung while only Bodos had been at Laopani.

(Exhibit No.4 enclosed)

Witness No.5

Sri Manik Ch. Brahma, Forest Ranger of Jharbari Range was heard. He stated that he was also present on the spot at the time of eviction of illegal encroachers in both the places - Lungsung and Laopani on 30<sup>th</sup> and 31<sup>st</sup> Oct, 2010 and 3<sup>rd</sup> Nov, 2010 respectively. As stated no huts were burnt in the eviction operation. He stated that the encroachers first make clearance of deep forest by felling trees and then they start to cultivate rice, maize etc. He further stated that the encroachers have extensively cleared vast forest area by felling trees and constructed their huts thereon. Both Lungsung and Laopani are not a forest village. It is far from the recognised forest village.

(Exhibit No.5 enclosed)

Witness No.6

Sri Dimbeswar Das, Forest Range Officer was heard. He stated that he was also present in the eviction programme at Lungsung and Laopani on 30<sup>th</sup> and 31<sup>st</sup> Oct, 2010 and 3<sup>rd</sup> Nov, 2010. The Forest reserves under Haltugaon Division starting from Haltugaon in the south stretches to the Indo-Bhutan Border in the north covering a distance of about 55 KM upto Lungsung and Laopani. He further stated that there still exist thick forest in the west and north of the encroached area of Lungsung and Laopani. Encroachers were evicted from the east and south of the Lungsung Block in 2007.

(Exhibit No.6 enclosed)

(Con'd.....3)

421

Witness No. 7

Smti. Polmoni Murmu W/O Sri Kaliharam Hasda of Lungsung was heard. She stated that she had her own house at Kia Jharna village, but after ethnic violence in 1996 she had to stay at Jaypur relief camp. She came to Lungsung 6 years ago and settled there since then. She further stated that her hut made of polythene roofing with locally available material from jute for fencing the hut was burnt by the Forest department during eviction and took the male members along with them. She stated that she has been still living in the burnt house. She has about 12 bighas of land under her occupation.

(Exhibit No.7 enclosed)

Witness No.8

Smti. Sona Marli W/O Sri Basu Murmu, Lungsung was heard. She stated that she had been in the Jaypur relief camp and got Rs:10,000/- as Rehabilitation Grant. Before that she had been living at Kia Jharna village and now her entire land is under the occupation of Bodo people. She came to Lungsung six years ago and now she has 12 bighas of land under her occupation. She stated that her hut was burnt down by the Forest department in the eviction operation. She further stated that large group of families came along to Lungsung six years ago.

(Exhibit No.8 enclosed)

Witness No.9

Smti. Sajjani Murmu W/O Sri Mangal Murmu was heard. She stated that the Lungsung area was full of forest before she came there 2(two) years ago. After clearance of trees their small hut made of polythene roofing and locally available material from jute for fencing was constructed. She stated that the Forest department dismantled and burnt her hut including some utensils. She is still living in her burnt hut. She came from village Kurshamari of Garufela under Gossaigaon Sub-Division.

(Exhibit No.9 enclosed)

In consideration of the above statements it appears that there was substantive reason on the part of the Forest Deptt. to take drastic step for protection of forest resources of nation's pride.

My observation are as follows.

1. The Forest Deptt. have its exclusive right to protect the forest resources full of bio-diversity, flora and fauna, medicinal herbs and environment.
2. The forest land under encroachers at Lungsung and Laopani had been thick jungle with heavy trees. I have found many valuable trees felling by the unscrupulous encroachers / timber smugglers within Lungsung block.
3. The encroachers at Lungsung and Laopani are mostly landless and displace person. Many of these persons are from relief camps. Some encroachers have their own land in established villages. They are in search of additional land. So they have encroached the forest land.
4. Each encroacher have been found encroaching a minimum of 12 bighas of forest land.
5. Each encroacher's dwelling hut is made of polythene roofing, fencing of side wall with locally available material, with approximate measurement of 7x9'x6.10' sq feet temporary structure.

(Cont'd...../4)

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6. All the huts are scattered throughout the vast area of the encroached land.

7. The encroached forest land at Lungsung have been found with standing mustard oil crop. No damage to the crop is seen.

8. Felling of many trees of approximate measurement of 7' to 9' round and 15' to 22' length around the encroached area have been seen. One person was apprehended red handed for alleged felling of trees with a total group of 17 persons during my visit at Lungsung. Others managed to escape.

9. The encroachers seems to be increasing day by day resulting extensive destruction of forest resource towards west and north of Lungsung block which is still covered with heavy trees.

10. While interacting with women found on the spot, it was stated by those women in simplicity that their huts were burnt by the Forest Deptt. So, burning of some huts if not all by the Forest Deptt. in the eviction operation cannot be ruled out. Some wooden pole used for raising the huts have been found burnt sign. The encroachers are still living in their huts with cattle, pig and other belongings.

In consideration of the above findings, I would like to submit my views for resolution of this burning issues both for the protection of forest land and settlement of the encroachers mostly displace and landless person with dignity as follows:-

- (i) There are vast area of treeless forest land under Haltugaon Forest Division at the southern most part of the Division. Those land may be proposed for de-reservation and settle the encroachers both Adivasi and Boro in cluster in several plots of land with provision of setting up of Primary school, Medical Sub-Centre and drinking water facility.
- (ii) Micro financing. Grants in aid for small scale industries may be extended to the able skill and unskilled beneficiaries for sustainable economy. Wage earner labourers may also be provided job opportunity to work under Forest Deptt.
- (iii) The Govt. of Assam may be requested to extend schemes / grants in aid for the welfare of the encroachers.
- (iv) The Forest Deptt. should take step to station fixed picket of Forest Battalion or security guard in the encroached area for strict vigil and to check further felling of trees in future. Forest Out Post with strong guarding along the river Laopani at Laopani river bank located at the access forest road towards Laopani is advisable for protection of deep forest with heavy trees at Laopani area. One Forest I.B. may also be constructed at the location as suggested.

(Cont'd...../5)

(423)

The allegation in Para-II lodged by Hon'ble M.P. Sri M. Badruddin Ajmal after addressed to the Hon'ble Prime Minister of India is not wholly true. No such lies perpetrated by the Forest Deptt. on the Adivasi encroachers during eviction has found. Further there was no such cases of killing of children. The Executive state detailed for law and order duty has stated the eviction operation to be peaceful no lathicharge, no firing were exercised. The Bodo encroachers were also evicted Laopani on 3<sup>rd</sup> Nov/2010 in the same manner as was done at Lungsung. The trial evidence proves indiscriminate destruction of forest resource with heavy trees. cultivation of rice, maize, mustard oil crop at the cost of thick forest with heavy trees serious crime and liable to be punished as per law.

Submitted the above for favour of your perusal and necessary action.

Yours faithfully,

- Encl : 1) Statement of forest official in 2 Sheets  
2) Statement of Executive Magistrate  
3) Statement of ... sheets.  
4) Statement of ... sheets.  
5) Statement of ... sheets.

*[Signature]*  
20/10/10  
Security Commissioner

# Exhibit No. 1

Statement of Mr. C. Ramesh DFO Haldwara Division

S/O Sri M.P. CHENNIPPANI

Age - 35 years

Date - 6/12/10

424

On oath or Affirmation

A Jointed in DFO Haldwara Division, Kakinada  
in July 2010. Before eviction of the encroachers at  
Kaspani and Lingsing Block of Chirang Reserve Forest.  
I have not carried out any eviction in this Division.  
But my predecessors had carried out eviction programme  
at Chirang reserve forest many times. The main objectives  
is to evict the encroachers from the reserve forest for  
protection of reserve forest from destruction, the forest  
department is a department subject to B.C. A meeting  
with Dy Chief, A.C. Forest Dept and B.C. officials was  
held on 7th June/10 and decided to evict all encroachers  
from the reserve forest immediately and hand over the  
evicted area to Eco-task for plantation and protection  
from re-encroachment. Accordingly eviction was  
carried out at Lingsing on 30th & 31st of Oct/10  
and at Kaspani on 3rd Nov/10. Due eviction notices  
were served to all encroachers on 13th Oct/10.  
The total numbers of families evicted from Lingsing  
and Kaspani are 1000 and 500 respectively. The huts  
were made of temporary structure with polythene  
roofing were dismantled only. It is true that these  
huts were not actually burnt. It is also true that  
that some VIPs had visited the evicted area at Lingsing.  
It is true that bamboo trees, banana trees, papaya trees,  
vegetables were cut down and damaged. Mostly the  
encroachers are from relief camps. During eviction  
before dismantling the huts the encroachers had  
packed up their belongings and kept under safe  
custody. It is true that after eviction programme  
was over no such eviction with dismantling/  
burning of huts at Lingsing and Kaspani was  
carried out by the forest department. ACF Sri Raju  
K. Pargalmai, ACF Mr. Nath, Range Officer Sri Manik  
Abraham, Range Officer Sri Dineshwar Das, Range Officer  
Sri Manik Das along with Foresties, Forest guards  
honor guard staff, NCC volunteers from Kakinada Forest  
division actively participated in the eviction  
of the encroachers. The total evicted area was  
about 120 hectares and surrounded 130 hectares  
has been protected through various schemes since 2000.  
The area regenerated and then will plantations were

ROAC

Asst  
6/12/10

(C. RAMESH)

6/12/2010

(425)

destroyed by the encroachers, those encroachers  
are very new and recently encroached the region.  
It is true that as per forest rules one can enter  
forest without proper authority. The entire Chitwan  
reserve forest, including Jamsung and Kumpun falls  
within Manas Tiger reserve, and Manas River change  
catchment reserve and Manas Biosphere reserve. It is  
true that there was no firing, no harassment and no  
entry to any one during visit.

Officer  
6/12/2010

(C. RAMESH)

426

Exhibit No. 2

Statement of Sub-Inspector A.C.S.  
Circle Office of Kakrajhar P.S., Chhota  
S/O Late Mahant Lal, Dinkia  
Mangrhol Colony  
P.O. Kakrajhar  
Age - 43 years  
Date - 6/12/10

On Oath or Affirmation

I received order from D.C. Kakrajhar  
for law & order during and during and  
during during eviction operation on  
24/11/10 and 24/11/10 respectively.  
I was present during eviction operation on  
those days with one section of force <sup>employed</sup> for  
this purpose. There was no such situation  
there for during eviction operation. There  
was about 150 manpower for conducting eviction  
operation. It is true that there was no  
burning of huts of the encroachers. It is  
also true that about 57 persons at Laopani  
and 33 persons at Lingsung area were charged  
for illegal felling of trees and illegal encroachment  
ent respectively. There was no loss of  
lathicharga, firing and injuries during  
eviction operation. No personal belongings  
except huts were damaged. Lathicharga and  
Bodas have been at Lingsung forest block  
and Bodas at Laopani forest block have been  
found during eviction.

A.C.

6/12/10

Bipal Saini  
6/12/2010

(4127)

Exhibit No.

Statement of Shri Bipul Sainia A/c  
Circle Officer of Kankrajhar Rev. Circle  
S/O Late Ghanendra Sainia  
Mangrholo Colony  
P.O. Kankrajhar.  
Age - 43 years  
Date - 6/12/10

On Oath or Affirmation

AOAC

Adm  
6/12/10

I received order from D.C. Kankrajhar for law & order duty at Mangrholo and Laopani during eviction operation on 30<sup>th</sup> 31<sup>st</sup> Oct/10 and 3<sup>rd</sup> Nov/10 respectively. I was present during eviction operation on those days with one section of force detailed for this purpose. There was no such <sup>unlawful</sup> situation arose for during eviction operation. There was about 150 manpower for conducting eviction operation. It is true that there was no burning of huts of the encroachers. It is also true that about 7 persons at Laopani and 33 persons at Mangrholo area were arrested for illegal felling of trees and illegal encroachment respectively. There was no cases of Lathicharge, firing and injuries during eviction operation. No personal belongings excepted Bunk were damaged. Bunkashri and Bunkas have been at Mangrholo forest block and Bunkas at Laopani forest block have been found during eviction.

Bipul Sainia  
6/12/2010

Exhibit No. 3

Exhibit No. 3

John Cunningham of the Great River to James Buchanan

ACF Helitigon Division

$$f^2(x) = 1 + f(x) \quad \text{for } G \in G_{\text{odd}}, \text{ and } f^2(x) = f(x) \text{ for } G \in G_{\text{even}}.$$

Včty. Soudcomer's at 1000 W. 10th Ave.

There

Age - 27 years

Proposition - Service

Date - 8/12/18

On Oath or Affirmation

My jurisdiction as ACF Haltingan Division covers entire Ripu, Chirang Reserve forest including Lungbung and Laopani block. There is no forest village at Lungbung and Laopani block. All other ejected families 30th August 2007 consists of Lungbung and Laopani block were encroachers. A total of 1990 nos. of house (huts) at Lungbung and 500 nos. of huts at Laopani were damaged on 30th Dec/10 at Lungbung and on 3rd Nov/10 at Laopani. It is true that no huts were burnt and it is also true that no male/female family members were injured during dismantling of huts. There was no confrontation between the encroachers and our staff at the time of ejection. The encroachers settled at Laopani and Lungbung since 5/6 years ago after payment of Rehabilitation Grant to the relief victims families of 1996 ethnic clash. The ejected families have no right to settle at forest land. Since 3rd and other forest dwellers having continuous habitation in forest village at a place only, entitled to live in the forest land village as per Forest Act 2006.

Shri. Raju Kumar Boodhoo  
A. C. F. Hallugam  
DIVISION, Kottagam.  
Date: 08-12-2010.

(429)

Exhibit No. 2

Statement of Shri Nihil Ch. Nath

ACF Haldwari Division

W/o B. K. Chakrabarti, D.O.

W/o Anshu Kumar, P.O. Haldwari

District Kashi

Age - 50 years

Profession - Service

Date - 8/12/10

On oath or Affirmation

I am present in the eviction programme at Haldwari and haspani on 30<sup>th</sup> & 31<sup>st</sup> Oct/10 and 4<sup>th</sup> Nov/10. at respectively. The huts of the illegal encroachers were dismantled by axes, chisels and manually. Before dismantling of huts an announcement was made by megaphone to leave the reserve forest along with their belongings. After announcement most of the families took out their belongings from the temporary huts including polythene coverings. All temporary structural huts were dismantled and damaged bamboo trees, papaya trees etc. No crop (rice) was damaged. There was no restriction from the encroachers and other public/organisation while conducting the eviction of encroachers. Most of the encroachers at Haldwari are from Adivasi and with a few Bhoj community while all encroachers at haspani block belongs to Bhoj community. It is clear that the huts of the encroachers were burned.

"NOT"

8/12/10

Sd/- Nihil Ch. Nath  
Asst. Conservator of  
Forest, Haldwari  
Divn., Kashi,  
8/12/2010

430

Exhibit No. 5

Statement of Shri Manik Ch. Brahman  
Forest Range Officer of Shribani  
S/O L-10 Rajanik. Brahman  
Vill. W/No. 8 Kheraghat Town  
Dist. - Kheraghat  
Age - 49 years  
Profession - Service  
Date - 3/12/10

On oath or Affirmation

I was present at Laxpuri and Lungsung on 3rd  
Nov/10 and 30th & 31st Dec/10 respectively while inspection  
programmes of encroachments were conducted. The  
ejected families were all illegal <sup>fresh</sup> encroachments.  
The illegal encroachments have encroached forest  
reserved land deep into the forest far away  
from forest village. The entire area of Lungsung  
and Laxpuri was covered by deep forest with  
heavy trees. The encroachments cleared the area  
vast area by felling trees and constructed  
their huts. The encroachments were started  
for cultivation of rice etc at the ~~same~~ after the  
clearance of deep forest. While conducting  
eviction some hunting weapons and deer-horns  
were found. It is true that no huts or of  
the encroachments were burnt. All huts were  
checked and before ~~clearance~~ dismantling and  
no private property except temporary structures  
were damaged.

RNC  
3/12/10

Shri Manik Ch. Brahman

Forest Range Officer.

Village W/No-8 Kheraghat Town

Dist. - Kheraghat.

Date - 3/12/2010

(431)

Statement of Sri Dinesh Kumar Das

Forest Range Officer, Baramung Range

S/O Kato A. K. B. B.

Vill. Chikangalim

P.O. Panpur

Dist. Sonitpur

Profession - Service

Age - 52 years

Date - 8/11/10

On Oath or Affirmation

I was present at the eviction programme at Lungsung and Laspuni on 20<sup>th</sup> & 21<sup>st</sup> Oct/10 and 15<sup>th</sup> Nov/10 respectively. The forest reserve starting from Hattugam in the south extends as far as the Blutan border in the north. The distance of Lungsung and Laspuni from Hattugam is about 55 km. It is true that ejected families of Lungsung and Laspuni are not recognised below/villages of that area. There are standing trees in the north west area of Lungsung and Laspuni area while illegal encroachments in the east and south of Lungsung and Laspuni were ejected earlier in 2007.

HON<sup>ble</sup>  
Sri Dinesh Kumar Das

Sri Dinesh Kumar Das

Forest Range Officer

Baramung Range.

Dt - 08-12-2010

4132

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RTI of



Fulmeri Kurnam

(433) Exhibit No. 8

ॐ नमो भगवते वासुदेवाय

4411(-21)-6258481

And (I know) that (I have) the right to do so.

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$\frac{d}{dt} \left( \frac{\partial L}{\partial \dot{x}} \right) = \frac{\partial L}{\partial x}$

6570 (6) 5611 (6) 1616 (6)

7 Sonia Hardy

4134

ଶ୍ରୀମତୀ ଶ୍ରୀମତୀ  
 ଶ୍ରୀମତୀ - ଶ୍ରୀ ଶ୍ରୀମତୀ (25/10/10)  
 ଶ୍ରୀମତୀ (25/10/10) - ଶ୍ରୀମତୀ (25/10/10)  
 ଶ୍ରୀମତୀ = 22 ଶ୍ରୀମତୀ  
 ଶ୍ରୀମତୀ - 22/12/10

ଶ୍ରୀମତୀ ଶ୍ରୀମତୀ

ROAE  
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4735

GOVERNMENT OF ASSAM  
OFFICE OF THE DISTRICT MAGISTRATE  
KOKRAJHAR

No. KMJ-22/2010/1

Dated Kokrajhar, the 30<sup>th</sup> November/2010.

To,

1. Dr. Ramesh C., IFS  
Divisional Forest Officer,  
Haltugaon Division, Kokrajhar.  
2. Sri Bipul Saikia, ACS,  
Circle Officer, Kokrajhar.

Sub:- Magisterial enquiry.

Sir,

With reference to the subject cited above, I would like to request you kindly to attend my office chamber on 6/12/2010 at 11:00 AM for hearing in connection with magisterial enquiry on eviction matters at Lungsung with relevant records.

Yours faithfully,

*Ajit Kr. Brahma*  
30/11/10  
(Ajit Kr. Brahma, ACS)  
Addl. District Magistrate,  
Kokrajhar.

97374038  
1/12/2010

PMO REFERENCE  
SPEED POST

F.No.4-4/2011-FPD  
Government of India  
Ministry of Environment and Forests  
(Forest Protection Division)

Paryavaran Bhawan,  
CGO Complex,  
Lodhi Road,  
New Delhi -110003  
Dated: 31<sup>st</sup> January, 2011

To

The Chief Secretary,  
Government of Assam,  
PWD Main Road, Dispur,  
Guwahati-781006.

Sub: Stoppage of eviction of Adivasi communities from Lungsung Forest Block in Kokrajhar district of Assam and immediate provision of grants for their relief and rehabilitation etc

Sir,

I am directed to forward herewith a copy of the Prime Minister's Office ID No. 10/2//C/1/2011-NE-Cell dated 4<sup>th</sup> January, 2011 alongwith a representation of Shri M. Badruddin Ajmal, Member of parliament (LS) Dhubri, Assam on the subject mentioned above.

It is requested that the matter may please be looked into and action taken in the matter may please be communicated to the applicant directly under intimation to this Ministry.

Yours faithfully,

(Rajesh Sharma)

Assistant Inspector General of Forests

Encl: As above.

Copy to:

1. Principal Chief Conservator of Forest, Govt. of Assam, Guwahati-781008.
2. The Secretary, Department of Forest, Govt. of Assam, Guwahati-781008
3. Shri Rajeev Topno, Director, Prime Minister's Office, South Block, New Delhi-110101 w.r.t. letter referred above, for information.

Yours faithfully,

(Rajesh Sharma)

Assistant Inspector General of Forests

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# Prime Minister's Office

South Block  
New Delhi

Please find enclosed, copy of a letter dated 08.12.2010 addressed to the Prime Minister by Shri M. Badruddin Ajmal, MP, along with a copy of a Joint memorandum submitted to the Home Minister by the All Adivasi Students Association of Assam (AASAA), Advasi Cobra Military of Assam (ACMA), Birsa Commando Force (BCF), Adivasi Seva Samiti (ASS).

2. It is requested that comments on the following issues contained in the memorandum may kindly be sent to this office urgently.

Secretary (E & F)  
No. 100  
Date 6/1/11

(i) Stoppage of eviction of Adivasi communities from Lungsung Forest Block in Kokrajhar district of Assam and immediate provision of grants for their relief and rehabilitation etc.

  
(Rajeev Topno)  
Director  
Tel- 23014547

Secretary, Ministry of Environment & Forests  
PMO I.D. No. 10/2/C/1/2011-NE Cell

Dated 4.1.2011

Encl.: As Above


100/PMO  
10/1/11

*4. clarify the time and further  
comments on one position*

DGF/SS

*12/11/11  
input from the  
state Govt*

*D/G (F&F) 11-12-11  
F&F?*

  
11/01/11

ATG (F&F)  
So (PPD)

*let's write to C.S of state of Assam, copy  
to secy Forest & P.C.C.F.*

*4/PMO/F&F/11  
11/01*

**Badrudin Ajmal**

Member of Parliament Lok Sabha  
Dhubri, Assam

Home Residence &  
Correspondence Address :  
1-3, South Avenue  
New Delhi-110011.



सत्यमेव जयते

*President*

ALL INDIA UNITED DEMOCRATIC FRONT

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Tel : 011-23795357

Fax : 011-23795363

Mobile : +91 9013180448

E-mail : mpdhubri@gmail.com

Parliamentary Committee

Member

- ★ Parliamentary Consultative Committee on Environment & Forest
- ★ Parliamentary Standing Committee on Industry
- ★ Parliamentary Forum on Global Warming and Climate Change
- ★ Member, India-Sri Lanka Friendship Committee
- ★ Member, Committee for Implementation of PM's 15 Point Programme

Other Committee Member

- ★ Advisory Board, Darul Uloom Deoband (U.P.)
- ★ All India Muslim Personal Law Board

Director

- ★ Ajmal Groups of Companies

President

- ★ Assam State, Jamiat Ulema-e-Hind
- ★ Markazul Ma'arif (NGO)

Managing Trustee

- ★ HAMM Hospital & Research Centre Assam
- ★ Ajmal Foundation
- ★ Al-Salam Cheritable Hospital Goalpara
- ★ Badarpur Cheritable Hospital
- ★ AWHAQ Hospital Moirabari

No.MBA/PM/Memo/2010/16

Date: 08 December 2010

*Respected Pradhan Mantri*  
*Peace and greetings from Dhubri, Assam!*

First of all I express my gratitude for providing me the opportunity of meeting with Hon'ble Minister along with the representatives of All Tea Tribes Adivasi United Forum, Assam, Adivasi Students Association of Assam (AASAA), Adivasi Cobra Military of Assam (ASMA), Birsa Commando Force (BCF) and Adivasi Seva Samiti. I take this opportunity of submitting the memorandum on behalf these organisations. While expressing support of my Party AIUDF to the demands as mentioned below I urge Hon'ble Prime Minister to look into these especially and initiate appropriate action at the earliest.

1. Inclusion of the Adivasis of Assam Viz. (i) Santal (ii) Oraon (iii) Munda (iv) Gond (v) Kharia (vi) Koya (vii) Savar (viii) Bhil (ix) Ho (x) Porja etc. communities in the list of scheduled tribe of Assam those who are existing scheduled tribe in other states of India except in Assam.
2. Immediate provision of relief & rehabilitation grants and stopping of eviction of the Adivasi communities from Lungsung forest block of Gaurang range under Haltugaon Forest Division in Kokrajhar district of Assam.
3. Immediate tripartite talk with two cessation Adivasi organizations of Assam i.e. (i) Adivasi Cobra Military (ACMA) and (ii) Birsa Commando Force (BCF)

*With Regards*

Yours sincerely,

(Maulana Badruddin Ajmal)

Member of Parliament (LS)

Dhubri, Assam

Dr. Manmohan Singh Ji  
Hon'ble Prime Minister of India  
New Delhi

JOINT MEMORANDUM SUBMITTED  
TO

P.A. CHIDAMBARAM

HON'BLE UNION HOME MINISTER  
GOVT. OF INDIA  
NEW DELHI

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DATED:-GOSSAIGAON THE 3<sup>RD</sup> DAY OF DECEMBER/2010.

**::IN THE MATTER OF::**

1. INCLUSION OF THE ADIVASIS OF ASSAM VIZ. (I) SANTAL (II) ORAON (III) MUNDA (IV) GOND (V) KHARIA (VI) KOYA (VII) SAVAR (VIII) BHIL (IX) HO (X) PORJA ETC. COMMUNITIES IN THE LIST OF SCHEDULED TRIBE OF ASSAM THOSE WHO ARE EXISTING SCHEDULED TRIBE IN OTHER STATES OF INDIA EXCEPT IN ASSAM.
2. IMMEDIATE PROVISION OF RELIEF & REHABILITATION GRANTS AND STOPPAGE TO EVICTION OF THE ADIVASI COMMUNITIES FROM LUNGSUNG FOREST BLOCK OF GAURANG RANGE UNDER HALTUGAON FOREST DIVISION IN KOKRAJHAR DISTRICT OF ASSAM
3. IMMEDIATE TRIPARTITE TALK WITH TWO CESSATION ADIVASI ORGANIZATIONS OF ASSAM i.e., (I) ADIVASI COBRA MILITARY OF ASSAM (ACMA) AND (II) BIRSA COMMANDO FORCE (BCF).

**::SUBMITTED BY::**

- # ALL ADIVASI STUDENTS' ASSOCIATION OF ASSAM (AASAA)
- # ADVASI COBRA MILITARY OF ASSAM (ACMA)
- # BIRSA COMMANDO FORCE (BCF)
- #ADIVASI SEVA SAMITI (ASS)

Copy to:- Mr. B. Ajmal (MP)  
Loksabha

pected Sir/Madam

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The undersigned for and on behalf of the All Adivasi students Association of Assam (AASAA), Adivasi Cobra Military of Assam (ACMA), Birsa Commando Force (BCF) and Adivasi Seva Samiti (ASS) have the honour to put forward our legitimate demands through this memorandum.

That Sir/Madam, we the Adivasis of Assam are the most Backward community in India. We have no proper Political, Social, Economic rights in Assam. The only solution of our Backwardness will be granting Scheduled Tribes Status that we are demanding for years.

Hon'ble Sir/Madam, history bears the witness to the long democratic struggle of the Adivasis, domiciled in Assam demanding the fulfillment of our legitimate constitutional rights. Our movements have been always characterized by peaceful non-violent and democratic method. But our problems and demands have been always neglected and denied. Consequently we are bound to acquaint you with our grievances and demands.

1. We the Adivasis of Assam have retained our own tribal cultural, languages, tradition, custom, costume and heritage. The various commissions and committees deputed by the Central Government of India have visited Assam to examine on the spot about their living condition. Notable among them are the report of Lakur Commission in 1956 and Shri A K Chanda, Chairman of Chanda Committee on the Scheduled Tribes and Scheduled Caste (Amendment Bill 1967) about the Schedule Tribes and Schedule Cast. Adivasis in village and tea garden of Assam reads as follows- The committee have accepted with overwhelming ovate that the Scheduled Tribes who are still Scheduled Tribes in the state of Madhya Pradesh, Bihar, Jharkhand, Orissa, Chattisgarh, West Bengal and Tripura etc. and in the same way we the Adivasis are settled down in the state of Assam before 1826, so we the Adivasis of Assam should be recognized as Scheduled Tribe. These tribe were recognized as Scheduled Tribe in Assam prior to 1947. But after 1947 these tribes were de Scheduled not because of any principle but purely on political ground. The Lakur Committee in their Report has ( rightly ) observed on the ground that it would seriously disturb the local political picture for the following criteria (1) primitive Traits (2) Distinctive of Culture (3) Geographical location (4) Shyness of contact with other community at large and (5) Backwardness. These Tribes labourers are still upholding these criteria but it is most regrettable that the above characteristics are now used to perpetuate these communities as labourers.

They have fulfilled all the criteria needed for the treating them as Scheduled Tribes and as per the provision of the Article 342 (B) of the constitution of India. State government of Assam in its letter to the Central Government vide Welfare of plain Tribe and Backward Classes etc. Deptt . Government of Assam Letter NO TAD/PT/06/76/124 dated Dispur the (1) Santhal (2) Munda (3) Oraon (4) Gond (5) Kharia (6) Pan (7) Porja (8) Bheel (9) Koya to be treated as Scheduled Tribes (plain) in Assam.

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due to the sudden change of Government in the Centre, these nine recommended Tribes did not recognise as Scheduled Tribe in the Parliament at that time. However in 1990 it was learn that the Central Government was actively considering to introduce the Scheduled Tribes and Scheduled Caste Amendment Bill in the Parliament seeking to include the left out caste and Tribes of India in the new list of Scheduled Caste and Scheduled Tribes and in this connection the Central Government had sought fresh recommendations from the respective state Governments in 1990.

In response to the request of the Central Government, for fresh recommendations and as part of the provision of the Article 342 (B) of the Indian Constitution the Hon'ble Governor of Assam, S. H. Das Thakur had also endorsed the recommended the said nine Tribes to the Central Government for inclusion in the Scheduled Tribes list on 11/08/1990.

The greatest injustice done to the Adivasis in Assam is their de-Scheduling and imposing an area restriction, whereas their counterpart in other part of India are considered as Scheduled Tribes. In spite of persistent demand to this effect the Government of Assam lacks seriousness in its recommendation and used terms which pose technical difficulty. The Government has been often delaying letters and recommended it in the name of Tea and Ex-Tea Garden Communities, instead of recommending with the Tribes names like Santhal, Oraon, Munda, Kharias Gonds, Pans, etc. It is also to be noted that Tea and Ex-Tea garden tribe names in Scheduling do not fulfils all the criteria required as per provision of Article 342 (B) of the constitution of India to be recognized as Scheduled Tribes but we are still deprived from our own legitimate rights.

The tea industry and Adivasi villages were settled down much before the Kahasis arrival in North-East India. The deputation of Adivsis in Assam was in before 18th century onwards and upto just after the Freedom Struggle (Santhal Hul) in 1855-56 which was lead by Sido Murmu and Kanhu Murmu. By which proved the presence of Adivasis in Assam since and hence Adivasis are the "Son of Soil".

Formation of Two Militancy Organisations:- Besides, democratic style pressure groups of Adivasis, another two militancy organization took birth to get permanent legitimate solution as well as to provide securities to the lives and properties to the Adivasis of Assam. Adivasi Cobra Military of Assam (ACMA) defence organization was formed 7th day of July in 1996 i.e. just after the riot took place between Bodo Militants (NDFB, BLT) and Adivasis (Santal, Oraon, Munda etc) Kokrajhar (undivided), Bongaigaon (undivided) and Dhubri district in Lower Assam. The Purpose of the riot was only to drive out the real Indians those who have migrated and settled down before more than 200 hundred years in Assam. During the riot more than 300000 (Three Lakhs) of Adivasi people became homeless and near about 50000 (Fifty Thousands) Adivasis, including adult and minors, were mercilessly killed by these Bodo militants. Even after 16 (Sixteen) years, there are more than 40000 (Forty Thousands) of Adivasis are still living in different relief camps in utterly miserable and inhuman condition in lower Assam.

The Adivasi people of Assam have completely lost faith in the administration of the Assam Government and they feel insecure. The government has to take tangible measures to gain the confidence of the Adivasi people of Assam. It is due to this feeling of insecurity, this organization has been formed to safeguard the interest of the poor and helpless Adivasis.

The aim of Adivasi Defence Organization is only to provide security of lives and property of riot affected Adivasi people of Assam. Continuing the arms struggle for 5 (Five) years, the Govt. of Assam invited the ACMA personnel for peace talk. Thus the ACMA declared a unilateral "cease-fire" with the State Govt. of Assam on **15<sup>th</sup> September/2001** placing only two major issues for Adivasi people of Assam as given below:-

1. *Immediate rehabilitation of the riot affected Adivasi people of three districts with proper security of life and property.*
2. *Immediate granting of Scheduled Tribe status to the Adivasis (like Santals, Oraons, Mundas etc.) of Assam whose counterparts are availing the same facility in other states of the Union of India (e.g. Jharkhand, West Bengal, Orissa, Bihar, Madhya Pradesh, Tripura etc.)*

Similarly, Birsa Commando Force (BCF) also came into existence on 30th June/1996 to avail the legitimate demands through arms struggle. The Birsa Commando Force (BCF) also declared its unilateral cease fire on 15th August/2004 placing the 16 points of charter demands to the State Government.

But, after its cessation no demands is fulfilled till date through the state Government of Assam. So, there should be immediate arrangement of **TRI-PARTITE TALK** among the two militancy organisations, State Government of Assam and the Central Government. Otherwise failing or delaying may caused to divert our cadres to other outfit and the responsible will go to Government negligently.

To be aware of the poisons which are killing the Adivasi Community:

Land alienation is one of the burning problems of the Adivasi Community of Assam which needs immediate attention to stop this process. Sample surveys conducted in some parts of Assam and projected for the whole states indicate that every years Adivasi Community is losing not less than five (5) thousands bighas of land this is excluding the ethnic violence of undivided Kokrajhar district in Assam in 1996 and 1998 in which more than 30000 (Thirty Thousands) families were displaced from their lands and after 10 (Ten) years. 20000 (Twenty Thousands) families already settled and still more than (10) ten thousands families not yet settled in their original places. Most awareness has to be done against the process of lands alienations. Land documents have settled to solve above

Likewise there are other problems like poverty, illiteracy, alcoholising, school dropout, child labour, lack of saving habits lack of strong leadership lack skilled labour, lack of ambition motivation and competition, low economic status lack of participation in the mainstream political process.

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Govt of India need to be aware of the past history of the Adivasis of India:

Some historians find traces of evidence of Adivasis and Adivasis kingdoms in the writing of Fahien Hien Tsang Puranas. On the analysis of language use of the Archery etc. in the two great Indian epics Ramayana and Mahabharat something of possible reference to Adivasi tribes Could it be that Adivasis had a very glorious past.

The definite history of Adivasis at least when considered Chotanagpur as their original begins with a history of displacement from their lands. Displacement and land alienation becomes stronger under British rule under zamindar system partly this displacement and land alienation was responsible for the migration of the Adivasis to different part of India including North East There has been great freedom fighters social reformers heroes like Bir Birsu Munda, Sido Murmu, Kanhu Murmu, Jatra Oraon, Christopherson Munda, Mangri Mam and Albert Ekka etc. but it is very sadly in Indian history do not mention them. Therefore, it is right time to demand Scheduled Tribes Status for the Adivasi Communities in Assam and we are create our own history.

North East Context:

It is common knowledge and quite undisputed that Adivasis migrated or rather lured migrate to North East India with the establishment of Adivasis Village and Tea Industry by the British. Nevertheless it is also a fact historians have establish on the basis of similarity of language, cultural, customs etc. That Adivasi have been living along with some of the Adivasis came themselves. Lack of identity and positive self image etc. are pulling back Adivasi society from being developed. There problems have to be analysed and treated scientifically using modern tools techniques and methodology.

Rightful Place in North East:

Adivasis are backbone of the economy and politics of Assam hence of North East India. Assam contribute 65% of India's total Tea export contribution is 140 crores to state exchequer annually. Adivasis are also contribution of products of cultivations, construction of road and cities etc. Adivasis constitute more than 30% of population of Assam and they provide stability to the politics of Assam Besides are rich culture, festival, music and dances language and traditions have been enrich and adding colours to the music of culture of the North East India. Assam is known in the outside world primarily for its production of Tea-where Adivasis are play indispensable role. The very word Adivasis( linguistically) not just linguistically but in reality- refers to original settlers (the first settlers) of India.

So we have equal rights if not more like any others communities of India. Adivasis are not only backbone and builders of Assam but much more- Adivasis are son of soil but the Adivasis are neglected from the right of Scheduled Tribes in Assam.

Yet neither government nor Tea Industry nor any other organisations have recognised contributions of the Adivasi community, nor have given it a rightful place. Since rightful place implies rights and no right granted unless the Adivasi community has been demanding for a rightful place. It has failed then why? Only when the community finds an appropriate answer to this? Why will it get its rightful place its identity in North East region.

### Scheduled Tribe Status for Adivasis in Assam

This paper examines the long-standing issue that Adivasis in the North East India state of Assam have been waging struggle on with respect to their demand to be classified as scheduled Tribes in the state. The paper takes the position that Scheduled Tribes status for Adivasis is needed a basic right considering the many generations of oppression the community has faced and keeping in mind the stand of the Government of India to provide certain rights based legal benefits in the form of reservations, political representation and socioeconomic subsidies for historically oppressed communities. However this position is placed within a large context of other issues and problems faced by the community, and the relevance of Scheduled Tribes status in dealing with them.

The paper starts with a brief history and background of Adivasis in Assam followed by a panoramic view of their political, social and economic disenfranchisement. The paper then attempts to examine and reconstruct the various arguments revolving around the issue of Scheduled Tribes status for Adivasis in Assam which forms the bulk of the write up. It ends with placing the issue of Scheduled Tribes status in context with all the problems of disenfranchisement faced by the Adivasis and brief notes on future research avenues.

**NOTE:** It is important to add here that the term "Adivasis" in the rest of India refers to tribes in general, except in North East India and particularly Assam. Where the term by and large refers to a specific community of tribes or sub-tribes (such as Santhal Munda Oraon etc.) who migrated from the central Indian region to work in the tea gardens of Assam. There are many other tribes in Assam and North East India, like Bodo, Khasi, Mizo, Naga, etc. most of these other tribes have Scheduled Tribes status and many socio-political complexities in the North East Indian region over who ought to receive Scheduled Tribes status is quite on a central element in the issue of Adivasis in Assam receiving the same. While a

discussion on this paper. There will be elements of it discussed that directly relate to the struggle by Adivasis in Assam to receive Scheduled Tribes status.

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### History and Background of Adivasi in Assam:

The Adivasis in Assam traditionally known as the "first peoples" or Indigenous people. There is no proof of the inception of human beings in India with all the population groups, since prehistoric Stone Age migrating in different periods of time from different regions. However Adivasis were among the first group of people to arrive in India before any other communities such as the Aryans, Dravidians, Mongolians etc. hence the moniker first peoples. Adivasis involved from hunter gatherer societies to developing cultivation-based societies much like numerous other population groups all over the world. The intimate connection to land and natural produce is something that can be seen this day across India. Adivasis were and continue to be primarily agriculturalists and that too subsistence cultivators who live off the land in tightly knit villages and communities with a history that can be traced back many centuries. However the history of the Adivasis in Assam really starts from the 1850 onwards and is directly connected to one industry tea.

The British "discovered" tea in the early 1820s when the native tea leaf in Assam long brewed by the Singpho tribe, was presented to a certain military man by the name of Bruce<sup>2</sup>. The British East India Company (in realising the possibility of regaining monopoly from China in tea production) took over Assam in 1826 from the Ahom kings through the Yandaboo Treaty. Soon after in 1837, the first tea garden was established at Chabua in Dibrugarh District of Assam, in 1840 the Assam Tea Company started the production of tea on a commercial basis. The tea industry started expanding rapidly from the 1850s onwards. Vast tracts of land needed were cleared for the establishing of new tea plantations and soon by the turn of the century, Assam became the leading tea producing region in the world.<sup>3</sup>

Of course, the rapid expansion of the industry and its highly labour-intensive nature meant that a large source of labourers were required. While initially some workers were derived from Bodo-Kachari tribes, local labour proved difficult to recruit due to a number of reasons. The locals generally preferred cultivation and if at all, would work in the tea gardens out of temporary necessity. Furthermore the locals had a rather self-sufficient pre-capitalist economy and even considered tea garden work as derogatory. Added to this was the shortage of manpower due to the Burmese Invasion (1819-1824).<sup>4</sup>

<sup>2</sup> Nag, 1990

<sup>3</sup> Kar, 1999

<sup>4</sup> Chakravorty, 1997; Kar, 1999; Bhadra, 1999

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There was no landless labour class in the region to exploit. The British tried to abolishing certain local agricultural means of production and imposed heavy taxes on the subsistence farming of local peasants, but it was ultimately felt that uprooted labour would be far easier to control and exploit. This is where the export of labour began in the 1840s primarily from the Adivasi regions of Central and Eastern India<sup>5</sup>. The brutality of this process can be understood from the fact that the first batch of labourers in 1841 from the Chotanagpur area all died en-route due to malnutrition and illness. In 1859 only 2000 Adivasis were recruited which increased to 1.1 lakh by 1909. The British Government even passed the Transport of Native labourers Act in 1863 to licence and legitimise formerly informal recruitment systems. The recruitment carried on through highly abusive contractual networks and numerous episodes of fraud, forcible recruitment, kidnapping, and torture have been recorded as frequently occurring during the recruitment process.<sup>6</sup> There is even the rumour that the British orchestrated a famine in the Chotanagpur Santhal Pargana areas by stopping food supplies from reaching there so that the Adivasis would jump at the opportunity to work in the tea garden of Assam<sup>7</sup>.

All the Adivasis in Assam trace their immediate history through this torturous route of indentured, immigrant labour brought in to work in the tea gardens and it is precisely this labour that has resulted in the now legendary Assam tea. Indeed Dr. B.B. Das writes in his paper (Migration and Settlement of Tea Garden Labourers in North East India, 1999), "Tea is the product of the cumulative toil of the labourers. It is mainly because of their hardships that we have the golden brew which cheers thousands. The North East region of India is home of the world's finest variety of tea. It also accounts for a large bulk of the world's tea output."<sup>8</sup>

#### Political, Social and Economic Disenfranchisement:

In Assam, the Adivasis today can broadly be divided into two communities, the tea garden workers and those who came out of the tea gardens at the end of their contracts and settled in and around the area after procuring a little land mostly through Government schemes. They are mainly present in Western/Lower Assam; Morigaon, Nagaon, Sonitpur and Darrang in Middle Assam; Golaghat, Jorhat, Sibsagar, Dibrugarh and Tinsukia in Eastern/Upper Assam; North Chachar and Karbi Anglong in Southern Assam; as well as the Barak Valley.<sup>9</sup> Specific labour-

<sup>5</sup> Ibid.

<sup>6</sup> Kar, 1999; Bahadra, 1999; Toppo, 1999

<sup>7</sup> Horo, 1999

<sup>8</sup> Kerketta, 1999

<sup>9</sup> Kandulna, 1999; Mishra, 2005

related economic disenfranchisement might be different for the tea garden and Adivasi communities, however many aspects of their social and political disenfranchisement remain common.

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The condition of tea garden workers continues to be abysmal. While Adivasis form the vast majority of the workers, there are also small percentages of other tribal communities, as well as Nepalis, Bengalis, Oriyas and so on. Ranjit Das Gupta in his paper (From Peasants and Tribesmen to Plantation Workers, 1990) describes that the plantation labour was essentially unfree labour and while payment modes, work organisation etc. were similar to other segments of the industrial labour force, there were also many distinctive socio-economic traits, with plantations essentially being enclave economies combining both agricultural and industrial characteristics. Workers were in essence transported (forcibly, one might add) from non-capitalist, sustenance economies to working under the command of capital.<sup>10</sup>

During the initial decades from the 1850s until around the 1920s under the British, the working conditions were asking to slavery, with flogging, rape, torture and even the throwing of dead workers in rivers<sup>11</sup>. They were confined in connection-like camps in the tea gardens and housed in segregated "coolie" lines kept under strict surveillance with the harshest punishments for perceived laxness. Even among the labouring classes, the wage differences between the tea-garden workers were much lesser than their counterparts in public works or railways. The tea garden workers were under a strict time-bounds discipline with arduous work in all kinds of weather having to be done by men, women and children. Unbearably heavy loads of works, appalling wages, and forced to work even when ill due to the fear of ruthless punishments characterised the working conditions of the tea garden labourers.<sup>12</sup>

While certainly not comparable to earlier times, the working conditions today are still far from being the well-regulated environment that functions according to the Plantation Labour Act brought out in 1951 to protect the interests of workers in plantations. In addition there are numerous other violations under legislative measures meant to protect workers, all of which the plantation workers fall under such as the Workmen's Compensation Act 1929 and the Assam Plantation Employees Welfare Fund Act 1959.<sup>13</sup> The North Eastern Social Research Centre based in Guwahati conducted a comprehensive study in 2004 across 172 tea gardens in

<sup>10</sup> Das Gupta, 1990

<sup>11</sup> Kar, 1999; Toppo, 1999

<sup>12</sup> Das Gupta, 1990; Nag, 1990; Kar, 1999; Chakravorthy, 1999; Kandulna, 1999

<sup>13</sup> Kar, 1999; Toppo, 1999; Bharali, 2004

along with numerous interview and groups discussions with workers and youth. The study brought to light provisions for drinking water, creches, schools, proper health facilities, sanitation for women workers (who form the majority of tea industry labour) and shelter.<sup>14</sup>

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Even a cursory observation of the tea gardens in Assam confirms these violations across the board. In addition one notices the expanded usage of child labour. Upon further investigation and discussions with workers, one learns that wages paid are much lower than prescribed minimum wages, no overtime payment is made, and occasional physical abuse occurs. Women, who are the backbone of the tea industry and the large majority of the workers, face even harsher working conditions. In all the tea estates visited, one couldn't spot a single crach for infants and toddlers. Sanitation facilities were either inadequate or completely non-existent. And while nothing explicitly was mentioned, there have been many instances of verbal, physical and even sexual abuse. Women are in fact preferred as labour because most managers feel that they are particularly suited for garden work and easier to exploit.<sup>15</sup>

The conditions of the Adivasis who came out of the tea plantations and settled as cultivators around the gardens, is certainly better but not by much. Those who have land tend to be better off and more self-sufficient, while those possessing no of uncultivated land often end up as informal labour in nearby towns and cities. Education levels, health indicators and poverty levels for Adivasis are among the worst of all communities in Assam. Many Adivasi families find it difficult to get their children into educational institutions and later on in finding proper employment. Furthermore, while Adivasis, both tea garden and ex-tea garden communities form nearly 20% of the population, their representation in the legislative assembly is markedly lesser. They are disproportionately affected by natural disasters with erosions and floods frequently taking away their small farms. The government's ex-gratia in the event of these disasters is insufficient, while exploitation through usury is rampant. Their land is often usurped by the state or private players because of lack of proper documentation. A disturbing trend is that, due to continued disenfranchisement and oppression, self exploitation is on the rise with the fairly rampant spread of alcoholism among the community and the trafficking of women and children to work as domestic workers in cities like Kolkatta and Mumbai.<sup>16</sup>

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<sup>14</sup> Bharali, 2004

<sup>15</sup> Visit to tea gardens in lower and upper Assam, March/April 2008

<sup>16</sup> Mishra, 2005; In conversation with Self Help Groups in Lower and Upper Assam, Adivasi Women's co-operatives in Guwahati, as well as Adivasi families in Gossaigaon, March/April 2008.

Overall the historic injustices and discrimination that Adivasis face elsewhere in India are very much in existence in Assam as well

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Thus the issues of disenfranchisement that the Adivasis, both in and out of the tea gardens, face are numerous and deeply entrenched. Some of the more prominent Adivasi organisations like the All Adivasi Students' Association of Assam (AASAA) as well as group active with tea garden workers like the Assam Tea Tribe Students' Association (ATTSA) point to a particular policy feature that is historically missing here in Assam, which is the granting of Scheduled Tribe (ST) status to the Adivasis. The granting of this status is something these groups feel would go great lengths in ameliorating the historically oppressed condition of the Adivasis in Assam and it is often the central, that not only, point of many of their campaigns.<sup>17</sup>

Thomas Pulloppillil in his foreword and introduction to the book "Identity of Adivasis in Assam" 1999, writes that the Adivasis in Assam are at a critical juncture today in terms of defining themselves socially, politically, culturally and economically. This situation is made particularly crucial given the emergence of autonomous territories such as Bodoland, Lalung, Karbi and Mishing Autonomous Councils.<sup>18</sup> It is thus immensely important to reconstruct this particular demand for ST status, which has been a long standing struggle from all the Adivasi organisations in Assam even since the state descheduled them in 1947 after independence, especially as in all other regions of India, they have been deemed as deserving of Scheduled Tribe status due to historical oppression, conditions which are no different in Assam.

#### Examination and Deconstruction of Arguments revolving around ST status:

With Adivasis having borne a history of enormous exploitation, the Government of India (GOI) made special safeguards to protect them from exploitation as well as to ensure social justice since the inception of Planning in 1951<sup>19</sup>.

This policy of "protective discrimination" in order to safeguard the interest of historically oppressed communities included reservation of posts in public services guaranteed political representation, as well as a seat in education institutions it emerged as a result of immense socioeconomic inequality in India since the 1800s. After Independence it was felt that for the all round development of the country there was a need to provide additional attention to depressed

<sup>17</sup> In conversation with AASAA members in Gossaigaon, March 2008; Fernandes et al, 2002.

<sup>18</sup> Pulloppillil, 1999.

<sup>19</sup> Dutta, 2006.

communities, who were weak in a socioeconomic sense and politically is enfranchised. 20 The GOI sought to achieve through legislation, ameliorative programs and treatment to Scheduled cast and Scheduled Tribes. The primary objective being the creation of a civil society extending effective citizenship right to the poorest sections of the population who have been historically deprived and marginalised.

**An important question to thus ask is:** If Adivasis have been deemed as deserving of ST Status in every other part of India, why then has been denied to them all these years after Independence in Assam?

Among the prevailing broad based arguments (and this is by no means an exhaustive list) surrounding this issue include:

1. Adivasis came from outside the region i.e. migrated here as labourers to work in the tea gardens, hence cannot technically be considered as indigenous tribals.
2. They have not faced the historic discrimination and exploitation that the other tribes in the region have faced.
3. Granting ST status to Adivasis will dilute the franchise that other communities have gained through years of struggle to their own special status as well as political power in territorial councils.
4. There is some question with regards to the economic contribution of the Adivasi community to the state of Assam.
5. Adivasis have not assimilate properly enough into Assamese society and often practice their own culture, Languages and traditions within scheduled enclaves outside the purview of the larger Assamese society.

It is important to examine and deconstruct each of these arguments. They can by no means be converted to simple black or white reductions as numerous aspiration in the face of military and cultural hegemony play into this complex issue.

**(1) Migratory History:** - They most common argument against granting ST status to Adivasis in Assam is not point at their migratory history i.e. coming in to the state as indentured labour to work in the tea gardens. The argument is that they are technically not indigenous tribals as they are from another region outside Assam.

This argument is hugely problematic to make because it could then very easily be extended to numerous, indeed other communities in India who do receive special benefits. Harka Bahadur Chhetri in his book (Adivasis and the Culture of Assam, 2005)

reveals that there is no proof of inception of human beings in India, and that all the population groups, since prehistoric stone age migrated in different times from different regions. Adivasis were, however, among the first group of people to arrive in the region, hence often known as "First Peoples".<sup>21</sup>

It should also be noted that most of the other tribal communities in Assam who have been granted ST status (and deservedly so in the face of their own exploitative histories) trace their migratory histories to regions of present day-East and South East Asia, and thus it would be imprudent to somehow point to the migratory histories of Adivasis as an argument against the granting of ST status to them.

It's also important to note that the migration of Adivasis into Assam was as forced indentured labour and of an extremely harsh kind. Dr. B.B. Das indicates that the effects of migration for Adivasis included no choice of freedom and at the complete mercy of their recruiters and employers, further stating that the labourers settled in the tea belts of North East India are not a floating population but rather a settled population with no connection to their original homes, having adopted local ways and habits thus considering Assam to be their home.<sup>22</sup>

Finally, it must be strenuously added that the granting of special status by the Indian government is primarily a means of undoing past historical exploitation that tribal and other communities have faced rather than a moniker of identity. Thus it is around the issue of historic injustices that the argument should revolve around and not problematic arguments of indigeneness.

(2) Historic exploitation:- As a follow up to the last sentence in the above paragraph is the argument that Adivasis in Assam have not faced the historical injustices that other communities in the state have. This is highly specious because not only do Adivasis have among the lowest Human Development Indices of all communities in India, but they continue to face immense rights violations, despite legislative measures to protect them.

Literacy rates and health indicators are extremely low in comparison to other communities and while they're barely 10% of the Indian population, they constitute around 55% of the displaced people in the event of projects such as dams, power plants, industrial expansion etc. In addition those who have converted to Christianity are often targeted by Hindu extremist organisations. Of course there

<sup>21</sup> Chhetri, 2005

<sup>22</sup> Polloppillil, 1999; Kerketta, 1999

have been some improvement in many of these factors and particularly with respect to political representation due to the granting of ST status to them. Representation in public services, educational institutions and local governing bodies have increased proving that the affirmative measures being taken are resulting in some positive progress.<sup>23</sup> There is however a long way to go before their HDIs catch up with the rest of India, and continued protection through ST status is a must for that to happen.

In Assam, the situation is no different than the rest of India, and if anything worse because even the few benefits they're able to access through ST status is not present in the state, poverty, illiteracy, political disenfranchisement and immense socio-economic problems characterise the condition of the Adivasis in Assam.<sup>24</sup> Furthermore the political representation is hardly in tune with the size of the Adivasi population in Assam, standing at around 20% of the population. Often the only recourse in the face of this neglect from the state is to avail of some minimum services provided by various church based organisations. Thus in time with the GOI's long standing policy of providing protection through special status to historically oppressed communities, it becomes particularly vital to correct a gap in that particular policy with respect to the Adivasis in Assam.

(3) Dilution of franchise for other communities:- A fear among other communities is that granting ST status to Adivasis will dilute the franchise of other communities who have special status and protection under law. This is an important issue to consider as it deals with the justified fears of other oppressed communities. Certainly the status and territorial councils granted to numerous other communities in Assam have come after many years of identity-based struggle, and those communities would not want to see those protective measures eroded.

However, it is difficult to argue that ST status for Adivasis would somehow dilute the franchise of other tribal and oppressed communities. For instance in Tamil Nadu, where protective policy-making for historically oppressed communities has been a very long-standing feature of the state, protection given to SCs, STs and OBCs has, if anything, played a role in marginally redistributing power from the hands of the Brahmins and other Upper Castes to the hands of the communities mentioned. And while far being a perfect social experiment, it has not necessarily resulted in any real dilution of power from other oppressed communities, rather the dilution of power from the ruling classes. In India, as per legislation, reservation of protective policy-making is not an exercise in getting oppressed communities to fight with each other for the same crumbs, but rather an

<sup>23</sup> Dutta, 2006, Singh & Mehmi, 2006

<sup>24</sup> Kerketta, 1999

Exercise in redistributing power historically held by the ruling classes in an egalitarian manner to create a more just social order.

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This is the same analysis with which other oppressed communities in Assam ought to view the issue of ST status for Adivasis. If anything, it would result in a further redistribution of power from the hands of the ruling classes in Assam, rather than a dilution of their own hard-fought rights to be granted special status. Furthermore granting access to franchise for any historically oppressed community only adds to the overall development of that society, which will ultimately bear fruit for all communities.

(4) Economic contribution of Adivasis:- The contribution of the Adivasis to the economy of Assam is beyond doubt a great one. Right from the 1850s onwards when they were brought in as indentured labour, their toil and hardship made tea one of the pillars of the Assam economy. Robert Kerketta in his essay (Adivasis in Assam: Their Past, Present and Future) indicates that though they have been paradoxically deprived of ST status, it was they who gave political stability to Assam, contributing crores of rupees to the state through their hard labour in the tea gardens placing the region in the world map for its fine tea<sup>25</sup>. Assam alone produces more than 50% of India's total tea and the Assam economy is deeply reliant on tea exports both within India and internationally<sup>26</sup>.

The history of the tea industry in Assam confirms that within a few decades of the migration of Adivasis into the tea plantations, Assam cornered 54% of the market in the United Kingdom and outstripping China as the leading tea-producing region in the world<sup>27</sup>. Thus the mammoth success of Assam tea can be directly traced back to the toil of the Adivasis and it is acutely dependent on that very same labour till date.

(5) Assimilation of Adivasis into Assam Society:- After many generations of Adivasi existence in Assam, it is quite clear that they have very much assimilated into Assam society and consider Assam to be their home. Almost all Adivasi families speak fluent Assamese and for most it is their primary language of communication even within the family<sup>28</sup>. Traditions, food habits and culture have been woven with mainstream Assamese culture, indeed to the point where their former linguistic identity has almost completely ceased to exist.

25 Kerketta, 1999

26 Economic Survey of Assam, 2006-07

27 Bharali, 2004

28 In conversation with Adivasi families in Gossaigaon and Guwahati.

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Certainly there is an element of retention of former identities as written by Dr. Francis Ekka of the Central Institute of Indian Languages, Mysore. Ekka writes that they are elements of cultural connectless with Adivasis in Central India but which are fast being intertwined with Assamese culture<sup>29</sup>.

It must be added that culture is not static and what is seen as "mainstream" Assamese culture is indeed and evolution of different influences, and it would only be enriched further were it to be influenced by the various forms of Adivasi culture as well, who are very much as integral part of the socioeconomic and political structures of Assam.

Thus in conclusion to the above section on reconstructing the arguments revolving around this issue, it can be said that granting ST status to Adivasis is indeed a just need, which will benefit not only them but also Assamese society in general. To take up the example of Tamil Nadu again, the state has one of the highest education levels in the country and among the best HDIs, per capita income and industrialisation levels (all on par with OECD countries). The first Dalit President of India (the late K.R. Narayan), Chief Justice of India (K.G. Balakrishnan), and one of the most celebrated Dalit Social Scientists (Kanchi Illaiah) all hailed from Tamil Nadu and attributed their success to the reservation they availed of through special protective status granted to their community. It is no coincidence that it is also the state with one of the most progressive and long-standing policy-making measures in protecting historically oppressed communities. Thus when there is ample evidence showcasing how protection through policy-making can not only play a role in uplifting the beneficiary communities but also society in general, it stands to singular reason that such a policy in favour of Adivasis in Assam will produce similar results.

#### Relevance of ST status:-

It is critical to note however that ST status alone, while important, will not be some kind of quick-fix panacea to cure all ills. This is evident in other parts of India, where political power via reservation often ends up in the hands of the political elite of that section of society, who themselves sometimes form an oppressive ruling class within the community. There are numerous other issues that the Adivasis face such as lack of economic franchise, serious labour exploitation and social problems such as alcoholism that will require strenuous social movements to tackle.

Without serious examination of the vast gamut of issues that form the oppressive existence that the Adivasis have to contend with mere political representation will not wish them away. A worrying feature when interacting with Adivasi political organisations is the noticeable, single-point nature of their campaign demands, without vigorously examining deeper issues such as the conditions of Adivasi workers and women, as well as struggling against internal exploitation. A far clear analysis of labour and gender by the numerous Adivasi organisations, looking beyond just identity, and the building of movements based on that analysis would serve the community tremendously. The Adivasi have a long history of valiant struggle behind them, with one of the first rebellions against the British Empire being the Santhal Rebellion of 1855 as well as a history of egalitarian living. This legacy of struggle and egalitarianism can certainly be a guiding force in taking on the oppression that the Adivasis face today in a truly fruitful manner.

#### Future research: Evolving a policy on National Identity of Tribals and Oppressed Classes-

An important avenue for future research is to examine ways in which protective-policy making can be improve in India. Specifically, examination is required on the need to evolve, policy-wise, a *national identity of tribals and oppressed classes*, because protection needs to be extended to them on a pan-India basis. Dalits and Tribal cannot avail of the benefits of protective policy-making if they were to travel and settle down in some other region other than their native state, while continuing to face oppression and lack of franchise. This is particularly true, as most of these communities travel to different states as migrant labour and are in particular need of protection. It would resolve most issues surrounding this long-standing problem of providing protection to historically oppressed communities in a manner that is egalitarian and can truly provide far-reaching benefits to these communities and society at large.

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That Sir/Madam, there is a recent harassment, threats, atrocities etc. were being meted out to the adivasis time to time but the DISPLACEMENT AND ATROCITIES in the name of EVICTION. A gang of 200 (Two hundred) head of Bodo youths, employed by Haltugaon Divisional Forest Officer (DFO), along with Forest Protection Force and Task Force entered to Lungsung Forest Block of Gaurang Range under Haltugaon Forest Division in Kokrajhar district to evict the marginalised and helpless Adivasi people on 30th & 31st of October/2010. The eviction team started to threaten, chase, frighten and ordered to leave their houses & properties and started to set fire onto houses of Adivasi people. Besides, burning down the houses the eviction team cut down every kind of trees like mango, banana, bamboo, battle nut, papaya etc. and livestock-hen, duck, pig, goat were killed and taken away during eviction. The houses with movable properties like paddy, rice, household utensils, bicycles, ploughing instrument, clothes etc. were burnt down into ashes. Whomsoever were found in the houses of the villages including male, female, old men and women, minors were physically and mentally tortured during eviction. The women who protested were molested and beaten by the eviction team. Seeing their women being molested, the men came out to protest but they were arrested. There are 53 (Fifty three) nos of villages burnt down into ashes, 5975 (Five thousand nine hundred and seventy five) numbers of people become homeless consisting of 1143 (One thousand one hundred and forty three) families and 33 (Thirty three) head of Adivasis (Santal & Oranon) are arrested and sent to Kokrajhar jail. Besides these there were 9 (Nine) nos of Primary Schools, 6 (Six) nos of Churches, 7 (Seven) nos of Lakhi Mandir and 1 (One) nos of Manjhi Than (Place of worship) which were also burnt down into ashes.

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That Sir/Madam, it is notable that the Adivasi (Santal & Oraon) community people have been living in Lungsung Forest Block area since 1960s. The Adivasi and Bodo people were evicted in 1977 from said area. The district administration rehabilitated Bodo people in different places in Kokrajhar district but Adivasi people were remained in adjacent villages of the said area. In course of time the Adivasi people again went back to Lungsung forest area and settled down. Again in July/1996 these Adivasi people were driven out from the said area by Bodo extremists and took shelter in different relief camps. But due to improper relief grant provided by the Government i.e., 400 gram rice only for 10 days in a month, these people could not survive as human and again went back to the said area for cultivation to earn their livelihood and settled down there.

That Sir/Madam, the Forest Department didn't give any notification before evicting the Adivasi people as per the eviction procedure. It is also noteworthy to mention that in said forest area there are different communities like Bodo, Nepali, Adivasi communities people who have been living since 1960s but it is regretted matter that comparatively, only the Adivasi (Santal & Oraon) people are being mostly evicted time and again in large numbers. The departmental eviction is clear that it purely held on political back up and against the Adivasi (Santal & Oranon) people only.

It is also notable that the Government also provided census number to each family of the villages in said area. There are 11 (Eleven) nos of Lower Primary schools which were established by the Education department under SSA which are also burnt down into ashes.

Hence, we the all Adivasi organisations of Assam demands that-

1. The eviction be immediately stopped without any conditions.
2. The evicted people be immediately provided proper relief & rehabilitation grant with security to the lives and properties.
3. Immediate allotment of compensation against the lost properties.
4. The arrested Adivasi people be immediately released without any condition.

**NAME OF THE 53 NOS OF EVICTED VILLAGES OF LUNGSUNG FOREST BLOCK UNDER HALTUGAON FOREST DIVISION IN KOKRAJHAR DISTRICT OF ASSAM:: TOTAL FAMILIES:- 1143:: TOTAL POPULATION:- 5975**

|                        |                   |                    |
|------------------------|-------------------|--------------------|
| 1. Saharjuri           | 8. Dinajpur       | 15. Kodomguri      |
| 2. 2 No. Suparguri     | 9. Rajpur         | 16. Jirampur       |
| 3. Dohlapara           | 10. Kochagadatola | 17. Shyamaguri     |
| 4. Salbari (West Bank) | 11. Jhamelaguri   | 18. 1 No. Joygaon* |
| 5. Sonapur             | 12. Paharpur      | 19. 2 No. Joygaon* |
| 6. Gaurangpur          | 13. 1 No. Manipur | 20. Anaripur       |
| 7. Lakhipur            | 14. 2 No. Manipur |                    |

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21. Gadatola
22. New Gadatola
23. Bambijhora
24. Jamunpur
25. Sagenpur
26. Jhamelapur
27. Balapara\*
28. Manjhipara
29. Dhordhora
30. Moinaguri
31. Gauripur
32. 2 No. Volaguri\*
33. Sikargarh
34. Dharampur
35. Indrapur
36. Japaitola
37. Rampur
38. Oxiguri
39. Dabaguri\*
40. Mariampur

41. 2 No. Paithantola
42. Champachera\*
43. Gambari\*
44. Kiyajharna
45. Dakhin Jaygaon
46. Samuktola
47. Tibhitola
48. Janumghutu
49. 1 No. Bandhalkocha
50. Bodajhora
51. 1 No. Edelghutu
52. 2 No. Edelghutu
53. Balajhar
54. Salbari (North Bank)
55. Sunapur
56. Parganapur
57. Lakhigaon
58. Glosingpara
59. Daphlapara
60. Garsingpara (Revenue Village)

**Destroyed Mandirs:-**

1. Kadamguri Lakhi Mandir
2. Kadamguri Manjhi Than
3. Sonapur Lakhi Mandir
4. Sikargarh Lakhi Mandir
5. Rampur Kali Mandir
6. Dabaguri Lakhi Mandir
7. Garsingpara Lakhi Mandir (Revenue Village)

**Destroyed Schools:-**

1. Amritpur S.S.K. L.P. School.
2. Shyamaguri S.S.K. L.P. School.
3. Sonapur S.S.K. L.P. School.
4. Gadatola S.S.K. L.P. School.
5. Kodomguri S.S.K. L.P. School.
6. Kiya Jharna S.S.K. L.P. School.
7. Jamunpur S.S.K. L.P. School.
8. Garsingpara L.P. School (Revenue village).
9. 2 No. Valoguri L.P. School.

**Destroyed Churches:-**

1. Rajpur Catholic Church
2. Salbari Pentacostal Church
3. Catholic Church- Kadamtola

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NAME OF ARRESTED PERSONS ON 30/10/2010

| <u>Name</u>        | <u>Fathers Name</u> | <u>Name of the Village</u> |
|--------------------|---------------------|----------------------------|
| 1. Jatindra Hasda  | Sarkar Hasda        | Suparguri                  |
| 2. Gopal Hasda     | Chundka Hasda       | Suparguri                  |
| 3. Lal Murmu       | Pandu Hasda         | Suparguri                  |
| 4. Lakhiram Tudu   | Lakhan Tudu         | Suparguri                  |
| 5. Mongal Soren    | Dasho Soren         | Suparguri                  |
| 6. Dewan Mardi     | Samlal Mardi        | Saharjuri                  |
| 7. Sakal Murmu     | .....               | Saharjuri                  |
| 8. Bosta Kujur     | .....               | Saharjuri                  |
| 9. Joseph Ekka     | Mekhael Ekka        | Sonapur                    |
| 10. Lash Soren     | Kisto Soren         | Sonapur                    |
| 11. Soma Tudu      | Uday Tudu           | Sonapur                    |
| 12. Bridaban Ekka  | Birsa Ekka          | Sonapur                    |
| 13. Badhiram Toppo | Etowa Toppo         | Sonapur                    |
| 14. Francis Toppo  | Etowa Toppo         | Sonapur                    |
| 15. Somra Kujur    | Jorpa Kujur         | Sonapur                    |
| 16. Bijay Kujur    | Sukra Kujur         | Sonapur                    |
| 17. Rameswar Ekka  | Budhuwa Ekka        | Dinajpur                   |
| 18. Simal Tudu     | .....               | Jhamelaguri                |
| 19. Daibor Soren   | .....               | Kiyajharna                 |
| 20. Mondol Kisku   | .....               | Jhamelaguri                |
| 21. Budhrai Mardi  | .....               | Jhamelaguri                |
| 22. Rajesh Murmu   | Bijay Murmu         | Salbari                    |
| 23. Lukhiram Soren | Thote Soren         | Jhamelaguri                |
| 24. Matla Soren    | Supol Soren         | Jhamelaguri                |
| 25. Philimon Hasda | .....               | Jhamelaguri                |
| 26. Phagu Hasda    | .....               | Jhamelaguri                |
| 27. Stephan Baskey | Lukhiram Baskey     | Jhamelaguri                |
| 28. Sitaram Tudu   | .....               | Jhamelaguri                |
| 29. Jetha Murmu    | .....               | Dinajpur                   |
| 30. Somai Soren    | .....               | Sagenpur                   |
| 31. Mondol Mardi   | .....               | Sonapur                    |

NAME OF ARRESTED PERSONS ON 31/10/2010

|                   |                          |           |
|-------------------|--------------------------|-----------|
| 1. Mangal Soren   | H/O. Mrs. Panoti Hembrom | Suparguri |
| 2. Jitendra Hasda | H/O. Mrs. Karna Soren    | Suparguri |
| 3. Gopal Hasda    | H/O. Mrs. Laxmi Soren    | Suparguri |
| 4. Lal Murmu      | H/O. Mrs. Satiyo Hembrom | Suparguri |
| 5. Lukhiram Tudu  | H/O. Mrs. Sonoti Murmu   | Suparguri |

Evicted on 31/10/2010:-

1. Villages- 14 Nos
2. School- 4 Nos
3. Church- 4 Nos
4. Lakhi Mandir- 3 Nos

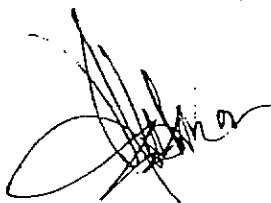
Besides, aforesaid illegal eviction, the forest department again went to Lungtung area on 21st November/2010 and re-evicted 6 (Six) villages consisting of 228 (Two hundred and twenty eight) families by destroying their every kind of sheltering hut made of plastic sheets and straw.

Name of the re-evicted villages

1. Sonapur
2. Kiyajharna
3. Dinajpur
4. Gaurangpur
5. Lakhipur
6. Jhamelapur
7. Suparguri
8. Salbari

You are therefore, fervently requested to use your good office for providing the proper and constitutional safeguard to the Adivasi people of Assam. All the Adivasi Organisations of Assam shall remain ever thankful to you for your act of kindness.

With profound regards!

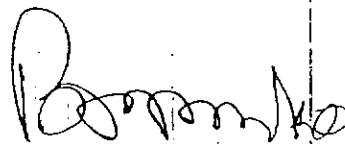


(Xabrias Khakha)

Chairman

Adivasi Cobra Military of Assam  
(CWC)

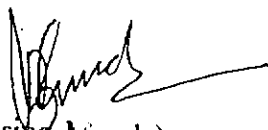
Sincerely Yours



(Bosco Chermako)

President

All Adivasi Students' Association of Assam  
Central Committee



(Birsing Munda)

Commander in Chief

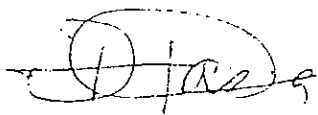
Birsa Commando Force  
Central Executive Committee



(Boyol Hembrom)

President

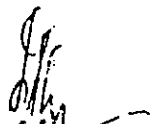
Adivasi Seva Samiti  
Central Committee



(Durga Hasda)  
Chairman  
Birsa Commando Force  
Central Executive Committee



(Hopna Soren)  
Secretary  
Adivasi Seva Samiti  
Central Committee



(Junas Murmu)  
Adviser  
All Adivasi Leading Organisations  
Central Committee  
0995435687

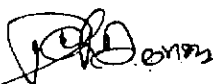
467



(Bin Kanta Soren)  
Vice Chairman  
Adivasi Cobra Military of Assam  
(CWC)



(Surjan Munda)  
Education & Environment Secretary  
Adivasi Cobra Military of Assam  
(CWC)



(Pakchikra Dhanowar)  
Asstt. Treasurer  
Adivasi Cobra Military of Assam  
(CWC)

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\*That Sir, the gi  
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462

আদিবাসী জাতীয় ঐক্য মঞ্চ  
কেন্দ্রীয় সমিতি  
Assam Adivasi Janagosti Adivasi Jatiya Oykio Manch

কার্যকরী সভাপতি  
কঠিয়াতলি, চারিআলি  
পোস্ট অফিস কঠিয়াতলি  
নগাঁও, অসম  
M.No. 94014-01212

স্বাক্ষর  
কঠিয়াতলি  
সেই অফিস বিজ্ঞপ্তি  
M.No. 94014-01212

পত্র  
উক্ত  
কঠিয়াতলি  
No. 94014-01212  
94014-70221

MEMORANDRUM  
TO

THE HON'BLE PRIME MINISTER OF INDIA  
DR MANMOHAN SINGH  
NEW DELHI-

DATED : 3rd Dec 2010

SUBJECT: In the matters of the Atrocities committed to the adivasis of kokrajhar district lungsung area, by government of Assam making more than 1000 families homeless by burning down their houses on 30<sup>th</sup> and 31<sup>st</sup> October 2010

- &  
To institute immediately a CBI enquiry into the lungsung incident and to rehabilitate those families at the earliest
- &  
To immediately schedule the adivasis & Tea community in the list of schedule tribe (ST)
- &  
\*To immediate repeal the Tea plantation labour act 1951 and to revive Assam Tea Corporation (ATC.) Garden.

SUBMITTED by: ASSAM CHAH JANAGOSTI ADHIVASI JATIYA OYKIYO MANCH, / SS. M.

Respected Sir,

Accept our greetings, we the Members of Assam Chah Janagosti Adivasi Jatiya Oykio Manch congratulate you for smoothly running your good office for the greater interest of country citizen,

That Sir, the Adivasis of Assam are in a great threat to their very existence of survival as we deeply regret to state that the government of Assam and btad council jointly have a deep conspiracy in ethnic cleansing of Adivasis in lungsung area of Kokrajhar District, in the Name of eviction of forest land by burning down more than 1000 families making them homeless on 30<sup>th</sup> & 31<sup>st</sup> october 2010 without any notification committing a barbaric act on human life balancing the same pre-planned conspiracy of genocide killing of 2000 adivasis and rendering more than 2 lakhs people in 1986-90 prior to the creation of btad.

\*That Sir, the great vailation to human rights of burning down more than 1000 Families of Adivasis in the name of eviction has not been checked by govt. of Assam and culprits behind this barbaric act. has not been made Known as the Govt. or supreme court, or high court has not in the history of India directed the forester to burnt down the Houses in the name of eviction as the forester involvement is an eye wash to avoid mass protest by people of the state, so we demand CBI

মন্ত্রকোষ  
Minister's Office  
কেন্দ্রীয়  
K SECTION  
31/12/10

(463)

to see into the whole episode of the lungsung incident.

Sir, the Adivasis are naturally forest dwellers & they have the right to live in forest Areas which forest rights act. has given & accordingly been living in the lungsung reserve forest since 1965 but not giving them land pattas till today is also a conspiracy against Adivasis. to wipe out from the Territorial Council. if we examine the skeleton of the buried people from 1965 in lungsung sent for forensic report it can directly prove that Adivasis are living since 1965-70 and are not encroachers.

Sir, beside the lungsung tragedy we also demand the long standing demand of the Adivasis & community in the list of schedule tribe (ST) list as they are backward in the fields of education, social, economic, political and health etc.

Sir, the Tea garden people working and living in Tea garden of Assam has contributed economically socially and politically to the stability of tea industry & democracy of state and country and to the economy of India in foreign exchange with regards to Tea. It is them who has made Assam a land of green gold, it is due to their sweat of blood that India is earning world fame in regards to tea but Sir, the same people have been deprived miserably by both government in the field of education, health, socio-political etc.

The Government has done nothing to eradicate illiteracy as more than 80% are still illiterate in Tea garden & 1000 die every year due to cholera, dysentery, TB waterborne diseases, anaemia, malaria. due to unhygienic condition in Tea Garden Labour Quarters. The ration given to workers are malnourished. & wage of daily rate labour is Rs 68 only as the central government sponsored NREGA gives minimum Rs. 100 to job card holders keeping in mind the alarm rise of commodity prices but not the Tea workers get daily wage of more than 100 Rs. As per as their hardwork is concerned. The Tea plantation labour act 1951 is still continued till today but has not fulfilled the aspiration of tea labourers for their condition has remain the same so we demand to immediately repeal this act and constitute an act which will give more amenities to workers and to establish a high school, ITI or college in tea estates instead of lower primary school establishment only. the labour act provision therefore, we immediately demand the repeal of the tea plantation labour act 1951 and grant more facilities to the workers and tea garden people.

Sir, the Assam Tea Corporation (ATC) run by by govt of Assam has always in the state of loss and are not in a position to manage the ATC garden, run smoothly as untimely payment of worker wages and depriving other amenities therefore we demand to immediately intervene into it and accordingly hand over to the government of India enterprises or to any other successive private companies.

Therefore sir, we are confident of your good Leadership in using your good office in immediately removing the miseries of adivasis and tea communities for a permanent solution of the oppressed citizens of the country in all round development of the community for which we would be evergrateful or also we will launch a mass agitational programme if our demands are not met at the earliest.

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(On Behalf Of Assam Chah Janagosti Adivasi Oykiyo Manch)

1. (Mr. Ishai Nanda)  
President
2. (Mr. Biren Mirdha)  
Working President
5. (Mr. Prakash Tanti)  
General Secretary
7. (Mr. Promod Phengra)  
General Secretary

3. (Mr. Satya Dev Sahu)  
General Secretary, adm

4. (Mr. Raphael Kujur)  
General Secretary

6. (Mr. Lokmudhar Tanti)  
General Secretary

8. (Mrs. Anjali Rajkumari)  
Advisor

9. (Mrs Deepali Bora)  
Advisor

**COPY TO**

1. Mrs. Susma Swraj Hon'ble Leader of the opposition Loksabha
2. Mr. Joseph Toppo Hon'ble Loksabha MP, Tezpur
3. Mr. Babulal Marandi Hon'ble Loksabha MP, Rajmahal
4. Mr. Badaruddin Azamal Hon'ble Loksabha MP, Dhubri
5. Mr. Rajen Gohain Hon'ble Loksabha MP, Nagaon
6. Mr. Manohar Tirkey Hon'ble Loksabha MP, Alipurduar
7. Mr. Biren Baishya Hon'ble Rajyasabha MP,
8. Mr. Kumar Deepak Das Hon'ble Rajyasabha MP,
9. Mrs. Bijoya Chakravoly Hon'ble Loksabha MP, Guwhati
10. Mr. Biswajit Daimari Hon'ble Rajyasabha MP,
11. Mr. Silvius Kondapan Hon'ble Rajyasabha MP,
12. Mr. Pawan Singh Ghatwar Hon'ble Loksabha MP, DIBRUGARH

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM; NAGALAND; MEGHALAYA; MANIPUR;  
TRIPURA; MIZORAM AND ARUNACHAL PRADESH)

1) WP(C)NO. 5043/08

Sri Baburam Narzary & others

....Petitioners

-vs-

The State of Assam & others

....Respondents

2) WP(C)NO. 3840/08

Sri Suniram Soren & others

....Petitioners

-vs-

The State of Assam & others

....Respondents

BEFORE

THE HON'BLE MR. JUSTICE H.N. SARMA

For the petitioners

Mr. A. Dasgupta,  
Mr. K.M. Haloi, Advocates

For the respondents

Mr. D. Das, Standing Counsel, BTC.  
Ms. H.M. Phukan, learned Govt. Advocate,  
Learned CGC.

Date of hearing

15/9/09

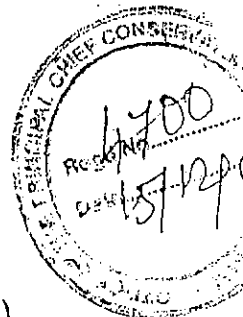
Date of delivery of  
judgment

17/9/09

JUDGMENT & ORDER (C.A.V.)

The subject matter of challenge and the reliefs sought for in both the writ petitions being common leading to determination of common question of law, both the matters were heard analogously and are being disposed of by this common judgment.

etc.



Dr. S.V. Laskar D/M  
Pl. keep it in  
Tribal Act file.

20/10/10

ACF  
SRE

PC II  
Immediate file  
20/12/09

(Dr.) 14/12/09  
H/c order  
✓ F.R.  
etc.

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2. Heard Mr. A. Dasgupta, learned counsel for the petitioner and Mr. D. Das, learned Standing Counsel, Bodoland Territorial Council as well as the learned Central Govt. Counsel for the respondents.

3. Writ Petition(C) No.5043/08 has been filed by a group of 25 petitioners alleging that they belong to Schedule Tribe (Bodo) [for short, 'ST'] community of Assam residing in Saralpara forest village under the Haltugaon forest division in the district of Kokrajhar, Assam and their names have been entered in the voter list of 30 No. Kokrajhar (East) ST Legislative Assembly Constituency as inhabitants of Saralpara village. The petitioners were the victims of ethnic clashes of 1996 that took place between the Boro and Adivasi people and they shifted to Naharani Relief Campus near Border established by the state authorities. Subsequently, they returned to their place of residence at Saralpara village in the year 1998. Due to re-eruption of ethnic clashes they were again shifted to Naharani relief camp and thereafter to Lahoripara relief camp. Upon prevailing harmony between the two rival groups, the petitioners and other group of persons returned to their original place of residence and constructed their thatched houses and started their normal avocation. On 22/9/2008, some officials of SSB department came to their place and asked them to vacate the said place and also demolished some of the thatched houses, constructed by them.

4. The petitioners claim that they are forest dwellers and they have no other source of livelihood other than the forest land under their occupation. They have acquired rights under Section 3 of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (for short 'the Act') which

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includes granting of patta and lease over the land occupied by the petitioners including the right of settlement. But the authorities not having recognized the said right, the petitioners have filed this writ petition praying to stop the eviction of the petitioners from their dwelling houses and agricultural land situated in the No.1 Sonapur of Saralpara forest village and to allow the petitioners to reside peacefully in the Saralpara forest village as forest dwellers and to settle the land under their occupation, in their name.

5. W.P.(C) No. 3840/08 has been filed by a group of seventeen petitioners alleging that they are traditional forest dwellers residing in the forest village of Ultapani area in the Kokrajhar district of Assam. Being the victim of ethnic clashes between the Boro and Adivasis in 1996 they took shelter in the relief camp in the Saralpara forest village in the district of Kokrajhar. Subsequently, they were shifted to the Bismuri relief camp in the same district as the earlier camp was attacked by some armed miscreants. The petitioners and other similarly situated persons were granted rehabilitation grant at the rate of Rs. 10,000/- each and were asked to shift to their original residential place. Accordingly, the petitioners constructed their dwelling houses in their original place of residence at Ultapani area of Kokrajhar but they have been evicted by the forest personnel from their dwelling houses. The petitioners allege that the action of the Government by rehabilitating them in different forest villages indicate that the Govt. had setup different villages for settlement of the petitioners and accordingly they are not liable to be evicted. The petitioners have filed this writ petition praying for a declaration that they are entitled to stay in different forest villages like Saralpara and Ultapani in the district of Kokrajhar, Assam and they have acquired necessary rights recognized under the aforesaid Act.

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(468)

6. The petitioners further allege that they are also entitled to get protection under the Assam Forest Regulation, 1891 as forest villagers apart from the rights under the Act. The various requests of the petitioners to include them as forest villagers and the related rights not having been accepted by the authorities, they have filed the writ petition with the prayers to stop eviction of the petitioners from their dwelling houses and for adequate compensations and to allow to rebuild their residential houses in forest villages within the Kokrajhar district.

7. Controverting the claim of the petitioners counter affidavits have been filed in both the cases by the respondent Nos. 2 and 4 in WP© No.3840/08 and a separate counter has been filed the respondent Nos. 6 and 7 in W.P.(C)No. 5043/08.

8. The respondents categorically deny the petitioners to be the residents of Sonapur No. 1 Saralpara forest village and the Saralpara Forest Village is inhabited only by the people of Nepali community. It is further contended that there is no village in the name of Sonapur No. 1 as per forest record and the names of the petitioners do not find place in the revenue record of Saralpara Forest village. It is also stated that under the Haltugaon Forest division, there are twenty five nos. of forest villages and the Saralpara forest village was established way back in the year 1909 which is fully inhabited by the people belonging to the Nepali community which is also confirmed by the revenue record. The respondents allege that the petitioners have recently encroached the forest land in the year 1990 itself and they are not forest dwellers and are not entitled to any protection under the Act as they do not fulfill the conditions prescribed under the Act.

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9. Mr. A. Dasgupta, learned counsel for the petitioners has strenuously submitted that the petitioners are the victim of circumstances and they being subjected to ethnic clashes/disturbances that took place in the area between the Adiyasis and tribal people and accordingly they were provided shelter in different relief camps established by the State authorities. It is further urged that the petitioners belongs to the recognized Schedule Tribes and they being in occupation of their land within the forest village for a long period of time, they are entitled to the protection granted under the Act. Learned counsel has referred to such protection and various rights and recognition thereof as provided under Sections 3 and 4 of the Act. It is contended that in spite of petitioners having fulfilled the necessary conditions precedent as prescribed under Section 4 of the Act, the State respondents have failed to discharge their obligation to recognize the petitioners as forest dwellers.

10. Submission made on behalf of the petitioner have been strictly resisted by the respondents contending that the petitioners are the recent encroachers in the area and no semblance of rights as forest dwellers could be acquired by the petitioners entitling their protection under the Act. It is also contented that the State Govt. has already paid pecuniary compensation to the petitioners for their rehabilitation in their original places and that does not mean that their rights as forest dwellers have been accepted and confirmed. The petitioners have not satisfied the requirements as forest dwellers either under the Act or under the provision of Assam Forest Regulation and they being mere encroachers of the forest land, no such right in their favour can be recognized. The land encroached by the petitioners falls within boundary of reserved forest and hence they are not entitled to continue their possession therein and are

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liable to be evicted. Under Forest Conservation Act, 1980 none of the activities as alleged by the petitioners are permissible nor a person other than the recognized forest villagers are entitled claim any right of settlement or construction of residential houses within the reserved forest area. In this backdrop of facts, the action taken by the respondent authorities to evict the petitioners from the forest land is fully justified, contended by the learned counsel for the respondents.

11. Submissions of the learned counsel for the parties have received due attention of the Court. From the materials available on record and the proved facts, it is established that neither the petitioners nor their ancestors were/are the residents under the forest village area or any other forest village under the Haltugaon Forest Division. The area in question falls within the Chirang Reserve Forest which was constituted as reserve forest land by the Govt. The Notification published in the year 1898. The Haltugaon Forest Division covers the original area of 59,632 hectares. The Saralpara village covers an area of 10,000 hectares and out of which almost 3,000 hectares are under encroachment. The Saralpara forest village was established way back in the year 1999. The name of the forest villagers can be found in the Jamabandi which is an authenticate revenue record prepared by the Revenue authority. Neither in the revenue record nor in any other document the names of the petitioners are found as forest villagers.

12. The Act (Act 2 of 2007) was enacted to recognize and vest the forest rights and occupation in forest land in forest dwelling Schedule Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for according the forest

Dr.

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rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

13. The basis of submission for claiming the rights acquired by the petitioners, as made by Mr. Dasgupta, learned counsel for the petitioners flows from the provision of Section 4 of the Act. In order to appreciate the submission of the learned counsel, let us have a close scrutiny of the relevant Sections of the Act, which are quoted below:

"2. (c) 'forest dwelling Schedule Tribes' means the members or community of the Schedule Tribes who primarily reside in and who depend on the forests or forest lands for bonafide livelihood needs and includes the Scheduled Tribe pastoralist communities;

(d) 'Forest land' means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

(f) 'forest villages' means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government.

(o) 'other traditional forest dweller' means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for bona fide livelihood needs.

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14. The forest rights of forest dwelling Schedule Tribes and other traditional forest dwellers on all forest land are mentioned in Section 3 of the Act which are as follows:

*"(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;*

*(b) community rights such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;*

*(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;*

*(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;*

*(e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;*

*(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;*

*(g) rights for conversion of Pattas or leases or grants issued by any local authority or any State Government on forest lands to titles;*

*(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;*

*(i) right to protect, regenerate or conserve or manage any community forest resource which they*

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have been traditionally protecting and conserving for sustainable use;

(j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;

(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005."

15. Sub Section 3(2) provide certain exception as regards use of forest land as contemplated under the Forest (Conservation) Act, 1980, for the purpose of setup schools, hospital, anganwadis, fair price shops etc. Section 4 of the Act provided for recognition of and vesting of forest rights in forest dwelling Schedule Tribes and other traditional forest dwellers.

16. Under Section 4(1) of the Act, the Central Govt. recognise and vest forest rights in forest dwelling Scheduled Tribes

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(474)

and other traditional forest dwellers notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act.

17. From a close scrutiny of the relevant provision of the Act it transpires that in order to claim the forest rights as contained in Section 3 of the Act and for recognition of such rights as contained in Section 4 of the Act, a person must fall within the category of such person under the definition as contained in 2(c) and 2(o) of the Act. But in the averments made in this two writ petitions and the counter affidavits as well as other documents made available before me, do not disclose that the petitioners falls within the aforesaid category of persons as defined under Section 2(c) and 2(o) of the Act.

The necessary conditions precedent for recognition of the rights under the Act as "forest dwellers" as contained in Section 3 of the Act not having been fulfilled by the petitioners, they could not satisfy their claims as "forest dwelling Schedule Tribes" or "other traditional forest dweller" within the meaning of the Act. In such a situation, the recognition of their rights under Section 4 of the Act does not arise.

19. The petitioners being found encroachers of the forest land, actions of the authorities in taking necessary steps for their eviction from such forest land cannot be termed as illegal or without jurisdiction and accordingly no interference is called for against such action of the authority. No declaration under Section 3 and 4 of the Act can be given in favour of the petitioners, on the basis of the proved facts of the case.

Dr.

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20. However, in view of the circumstances to which the petitioners are subjected, I would observe that it would be open for the State Respondents to rehabilitate the petitioners in some other areas, other than forest land as per the prevailing policy of the State Government. Since the petitioners have been rendered homeless, such consideration may be taken by the authority in an expeditious manner.

21. Both the writ petitions stand disposed of with the above order.

22. Interim order(s), if any passed earlier, stands vacated.

23. No costs.

Sd/- H.N. SARMA  
JUDGE

Memo No. HC.XXI. 21, 222--44 /R.M. Dtd. 01/12/09

Copy forwarded for information and necessary action to:

1. The State of Assam, represented by the Commissioner & Secretary, Govt. of Assam, Department of Forest, Dispur, Guwahati-6.
2. The Divisional Forest Officer, Haltugaon Division, Kokrajhar, Assam.
3. The Principal Chief Conservator of Forest, Assam, Rehabari, Guwahati-8.
4. The Bodoland Territorial Council, Kokrajhar (BTAD), Assam.
5. The Executive Member, Department of Forest, Bodoland Territorial Council Kokrajhar (BTAD), Assam.
6. The Commandant, 16<sup>th</sup> Battalion, S.S.B., Adabari (Assam), Dist.- Kokrajhar (BTAD) Assam.
7. The Union of India, represented by the Secretary, Govt. of India, Home Affairs, New Delhi.

By Order

Asstt. Registrar (B)  
Gauhati High Court, Guwahati.

Jal. Haotip

THE GAUHATI HIGH COURT AT GUWAHATI  
(The High Court of Assam, Nagaland, Meghalaya, Manipur,  
Tripura, Mizoram and Arunachal Pradesh)

PRINCIPAL SEAT AT GUWAHATI

CASE NO : WA 351/2009

District : Kokrajhar

1  
476

Category : 10237 (Writ Appeals under the Gauhati High Court Rules.)

IN THE MATTER OF

1. Sri Baburam Narzary,  
Son of Late Mebla Narzary,
2. Sri Jonen Narzary,  
Son of Late Bolcorsing Narzary,
3. Sri Biren Basumatary,  
Son of Subram Basumatary,
4. Sri Birbal Basumatary,  
Son of Thorbindra Basumatary,
5. Sri Soitorajh Narzary,  
Son of Late Santalla Narzary,
6. Sri Sukursing Basumatary,  
Son of Late Embu Basumatary,
7. Sri Gojen Mochahary,  
Son of Late Mohiram Mochahary,
8. Sri Robindra Mochahary,  
Son of Sri Gojen Mochahary,
9. Sri Binram Islury,  
Son of Sri Dhonsar Islury,
10. Sri Paniram Basumatary,  
Son of Late Rajo Basumatary,
11. Sri Anteswar Borgoyari,  
Son of Late Harson Borgoyari,
12. Sri Gogen Basumatary,  
Son of Late Moniya Basumatary,
13. Sri Robin Islury,  
Son of Late Suniram Islury.
14. Sri Kiren Basumatary,  
Son of Late Sagon Basumatary,
15. Sri Bolen Narzary,  
Son of Late Dabaru Narzary,
16. Sri Aniram Basumatary,  
Son of Sri Jogen Basumatary,

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17. Sri Soul Basumatary,  
Son of Late Debsing Basumatary,
18. Sri Pradip Borgoyari,  
Son of Sri Anteswar Borgoyari,
19. Sri Jiten Basumatary,  
Son of Sri Jogen Basumatary,
20. Sri Baburam Basumatary,  
Son of Late Jati Basumatary,
21. Sri Bisram Narzary,  
Son of Late Mohendra Narzary,
22. Sri Paulush Basumatary,  
Son of Late Banka Basumatary,
23. Sri Abet Borgoyary,  
Son of Sri Anteswar Borgoyary,
24. Sri Kudiram Basumatary,  
Son of Late Maosiya Basumatary,
25. Sri Jogesh Narzary,  
Son of Late Ekla Narzary

All are resident of village – Saralpara, No. 1  
Sonapur, P.O. – Ultapani, District –  
Kakrajhar (BTAD), Assam.

26. Sri Suniram Soren,  
Son of Late Bode Soren.
27. Sri Birsa Kerketa,  
Son of Late Bhoja Kerketa.
28. Sri Bhim Hasda,  
Son of Late Joholal Hasda
29. Mangal Baskey,  
Son of Late Monsi Baskey.
30. Jetha Hembrom,  
Son of Themka Hembrom.
31. Pet Soren,  
Son of Lala Soren.
32. Sri Shiv Tudu,  
Son of Ram Tudu.
33. Sukna Kerketa,  
Son of Dhuniram Kerketa.
34. Lukhiram Hembrom,  
Son of Jetha Hembrom.
35. Munsu Mardi,  
Son of Dinesh Mardi.

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36. Bejun Tudu,  
Son of Late Muna Tudu.
37. Ragat Hasda,  
Son of Late Gopal Hasda.
38. Ragda Hembrom,  
Son of Late Manjhi Hembrom.
39. Shom Mardi  
Son of Hopa Mardi.
40. Modon Baskey,  
Son of Ram Baskey.
41. Ratiya Bakla,  
Son of Bandhana Bakla
42. Somra Lakra,  
Son of Late Pare Lakra.

All are resident of Village – Saralpara,  
P.O:-Ultapani, District – Kokrajhar,  
BTAD, Assam.

.....Applicants

-Versus-

1. The State of Assam represented  
by the Commissioner and  
Secretary to the Govt. of Assam,  
Department of Forest, Dispur,  
Guwahati-6.
2. Divisional Forest Officer,  
Holtugaon Division, Kokrajhar,  
Assam.
3. Principal Chief Conservator of  
Forest, Assam, Rehabari,  
Guwahati – 8.
4. Bodoland Territorial Council,  
kokrajhar (BTAD), Assam.

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5. Executive Member, Department  
of Forest, Bodoland Territorial  
Council, Kokrajhar (BTAD),  
Assam.
6. Commandant, 16<sup>th</sup> Battalion,  
S.S.B. Adabari, Guwahati
7. Union of India  
Represented by the Secretary of  
the Govt. of India, Ministry of  
Home Affairs, New Delhi.

4

.....Respondents

**BEFORE**

**THE HON'BLE MR. JUSTICE RANJAN GOGOI**

**THE HON'BLE MR. JUSTICE B.P. KATAKEY**

**DATE OF ORDER : 20/05/2010**

(By Ranjan Gogoi, J.)

Two writ petitions i.e. W.P.(C) No. 5043/2008 and W.P.(C) No. 3540/2008 have been disposed of by the common order dated 22.10.2009 passed by a learned Single Judge of this Court. Two separate writ appeals ought to have been filed by the appellants who are the petitioners in the aforesaid two writ petitions. Instead, a composite appeal has been filed against the order dated 22.10.2009 passed in both the writ petitions. Having regard to the issues involved, we have thought it appropriate not to dismiss the writ appeal on the aforesaid ground and, instead, consider the same on merit.

The appellants-writ petitioners in W.P.(C) NO. 5043 of 2008 claim to be members of the Scheduled Tribe Community living in a Forest Village known as Saralpara Forest Village. According to them, the ethnic violence that had occurred in the decade of 90s had compelled them to leave the village to which they returned later. On such return, they have been threatened with eviction. Hence, the writ petition claiming protection as Forest Villagers under the provisions of Assam Forest Regulation. Additionally, protection under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as the "Act of 2006) has also been prayed for. The other set of appellants who were the petitioners in W.P.(C) No. 3840 of 2008 contend that they belong to different Tea Tribes living in the forest areas for long. The said appellants-petitioners also complain of threats of eviction from the land in their occupation and have sought similar protection as in the case of the petitioners in W.P.(C) No. 5043 of 2008.

(1180)

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The respondents in the appeal who were also the respondents in the writ petitions, particularly the authorities of the Bodoland Territorial Council had contested the claims made in the writ petitions by filing their affidavit. According to the respondent-BTC, the petitioners in W.P.(C) No.5043 of 2008 are not recognized forest villagers of Saralpara forest village and they are rank encroachers who are destroying the forest areas in their illegal occupation. The respondents in the affidavit filed, have also denied that the petitioners in either of the writ petitions out of which this appeal has arisen are entitled to protection under the provisions of the Act of 2006.

The learned Single Judge hearing the writ petitions came to the conclusion that the petitioners in W.P.(C) No.5043 of 2008 are not villagers of Saralpara Forest Village. The said finding was arrived at by the learned Single Judge on a consideration of the respective cases pleaded and the materials adduced, particularly the statements made by the respondent BTC, in the affidavit filed, that in the Jamabandi of Saralpara Forest Village the name of the petitioners are not included. The learned Single Judge also came to the conclusion that to be entitled to protection envisaged by the provisions of the Act of 2006, a claimant must be either a "forest dwelling Scheduled Tribe" within the meaning of Section 2 (c) of the Act or "other traditional forest dweller" within the meaning of Section 2 (o) of the Act. In this regard, the learned Single Judge came to the conclusion that on the pleadings contained in the writ petitions the definition contained in Section 2 (c) and 2 (o) of the Act are not satisfied so as to entitle the petitioners to claim any protection under the Act of 2006. Consequently, both the writ petitions were dismissed giving rise to this composite appeal.

Shri A. Dasgupta, learned counsel for the appellants-writ petitioners has vehemently urged that the learned Single Judge had committed a manifest error in law in determining the entitlement of the appellants-writ petitioners to protection under the Act of 2006 on the basis of the pleadings of the parties. Shri Dasgupta, by pointing to the relevant provisions of the Act and the Rules, has submitted that a distinct procedure for determination of such rights has been laid down which determination is required to be made by the specified bodies contemplated by the Act. The said procedure was not followed in the present case and, instead, the learned Single Judge had determined the question on the basis of the pleadings of the parties though the same ought to have been determined by the statutorily appointed authorities on the basis of evidence and materials to be adduced. Apart from the above, Shri Dasgupta has submitted that the appellants-petitioners in both the cases have been in occupation of the land in their possession for long and their names have been included in the Voters List. Ration Cards have also been issued to them. All the said facts, according to

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the learned counsel, would go to show that the appellants-petitioners are in occupation of the forest land. According to Shri Dasgupta, both sets of appellants being members of the Tribal Community are entitled to protection under the Act of 2006.

Shri PS Deka, learned Government Advocate, Assam, Mrs. M. Bordoloi, Standing Counsel, BTC and Mr. H. Thakuria, learned Central Government Counsel have offered a combined opposition to the contentions advanced on behalf of the petitioners. Learned counsels for the respondents, by referring to the affidavits filed by the BTC as-well-as the Union of India, have contended that the appellants-petitioners are rank encroachers and have destroyed valuable forest areas and are not entitled to any protection under the provisions of the Act of 2006. The learned counsels by referring to the said affidavits have further submitted that on each occasion that the appellants-petitioners had been evicted they have come back to reoccupy the land without any legal authority.

We have considered the rival contentions advanced on behalf of the contesting parties. If the respondents by referring to the Jamabandi of the Saralpara Village have sought to establish that the petitioners in W.P.(C) No. 5043 of 2008 are not included in the list of recognized forest villagers of the said Saralpara village, the Court cannot adjudge them to be the lawful and authorized residents of Saralpara Forest Village merely on the strength of the assertions made in the writ petition to the above effect.

Under Section 2 (c) of the Act of 2006, a member of the Scheduled Tribe Community is required to primarily reside in a forest village and has to be dependent on the forest land for his bonafide livelihood. Under Section 2 (o) of the Act, to come within the meaning of "other traditional forest dweller", a person has to be residing in and dependent on the forests and forests land for bonafide livelihood for at-least three generations prior to 13.12.2005. There is no averment in either of the writ petition to even, prima facie, attract the definitions contained in Section 2(c) and 2 (o) of the Act of 2006. In-fact, in so far as W.P.(C) No. 3840/2008 is concerned, it is clear that the petitioners who claim to be members of different tea tribes, admittedly will not be members of any Scheduled Tribe. That apart, the stand taken by the respondents in the affidavits filed that the petitioners are rank encroachers having no legal right to the forest land in their occupation cannot be brushed aside. In any case the said stand of the respondents give rise to a disputed question of fact which cannot be adjudicated in a writ petition. In this regard, the absence of any material to the contrary is also conspicuous. The Court, therefore has to hold that the findings recorded by the learned Single Judge that the petitioners, on the basis of their pleadings, have failed to establish that they are either "forest dwelling Scheduled Tribe and/or other traditional forest dweller" is correct and justified.

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The argument advanced by Shri Dasgupta, learned counsel for the appellants with regard to the scheme for determination of forest rights under the Act of 2006 and the Rules framed thereunder proceeds on an assumption that the petitioners are either "forest dwelling Scheduled Tribe" within the meaning of Section 2 (c) of the Act or "other traditional forest dweller" within the meaning of Section 2 (o) of the Act of 2006. Even if the Court is to proceed on the said assumption, the materials laid down before the Court by Shri PS Deka, learned Government Advocate, Assam indicate that the bodies, contemplated by the Act of 2006 to make the necessary determination are not yet in existence. Shri Dasgupta, therefore, has submitted that a direction should be issued to the State to constitute the said bodies. Not only the appellants-petitioners would not be entitled to the said direction as they have failed to establish that they are either "forest dwelling Scheduled Tribe" or "other traditional forest dweller", even otherwise, the Court would not be inclined to issue any such direction inasmuch as the appellants had not in either of the writ petitions, prayed for such a direction. It is not the appellants' case in either of the writ petitions that the bodies contemplated by the Act are not in existence and, therefore, State Government should be directed to constitute the said bodies.

Consequently and in the light of the foregoing discussions, we do not find any merit in this writ appeal. The writ appeal is consequently dismissed. However, in the facts and circumstances of the case, we make no order as to costs.

Sd/- B.P. Katakey  
Judge

Sd/- Ranjan Gogoi  
Judge

(TRUE COPY)

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Details of Forest Villages under Haltugaon Division, Kokrajhar

| Sl.No. | Name of Forest Village | Reserved Forest | Date of Creation | Area allotted (ha) | Number of Household | Population | Notification Number                   |
|--------|------------------------|-----------------|------------------|--------------------|---------------------|------------|---------------------------------------|
| 1      | Aminpara F.V.          | Bengtol         | 12-05-1949       | 264.00             | 55                  | 1310       | A/18(b) dtd 05-12-49                  |
| 2      | Bhodraupur F.V.        | Chirang         | 16/06/41         | 119.41             | 45                  | 1171       | CF/A/18 (b) dtd. 16/6/41              |
| 3      | Bhomoraguri F.V.       | Chirang         | 26/06/41         | 42.84              | 40                  | 675        | For/Esst./61/66 P/F/1/66 dtd.26/06/41 |
| 4      | Bhumka F.V.            | Chirang         | 20/07/77         | 218.74             | 65                  | 732        | FG/LAC/18/11/72-73/4930 dt.20/07/77   |
| 5      | Bhur F.V.              | Bengtol         | 19/10/49         | 301.30             | 50                  | 1050       | A/18(a) dt. 19/10/1949                |
| 6      | Bashbari F.V.          | Chirang         | 16/06/41         | 152.00             | 50                  | 1171       | CF/A/18(b) dtd 16-06-41               |
| 7      | Bishmuri F.V.          | Chirang         | 05-07-1947       | 85.00              | 31                  | 698        | CFS/A/87 dtd.07/05/47                 |
| 8      | Daktingaon F.V.        | Manas           | 12-05-1949       | 290.50             | 55                  | 1000       | A/18(a) dtd.05/12/49                  |
| 9      | Doljhora F.V.          | Chirang         | 05-07-1947       | 45.00              | 30                  | 311        | CFS/A/87 dtd07/05/1947                |
| 10     | Haltugaon F.V.         | Chirang         | 05-07-1947       | 120.80             | 12                  | 355        | CFS/A/87 dtd07/05/1947                |
| 11     | Haidhura F.V.          | Bengtol         | 05/12/49         | 240.00             | 50                  | 1326       | A/18 (a) dtd. 19/10/49                |
| 12     | Kashiguri F.V.         | Chirang         | 23/03/45         | 133.33             | 50                  | 808        | A/87 (a) dtd 23/03/45                 |
| 13     | Khalashi F.V.          | Chirang         | 11/03/50         | 165.46             | 45                  | 460        | A/18 (a) dtd. 11/3/50                 |
| 14     | Khingring F.V.         | Manas           | 05/12/49         | 260.00             | 55                  | 1050       | A/18(a) dtd 05/12/1949                |
| 15     | Labanyapur F.V.        | Chirang         | 18/12/49         | 134.00             | 59                  | 1243       | FC/LAC/40/11/66 dtd.21/01/67          |
| 16     | East Maligaon F.V.     | Chirang         | 16/06/41         | 129.00             | 40                  | 833        | A/18 (a) dtd. 16/6/41                 |
| 17     | West Maligaon F.V.     | Chirang         | 03-03-1967       | 129.91             | 50                  | 480        | For/Estt/61/66/Pt. 74 dtd. 03/03/67   |
| 18     | North Maligaon F.V.    | Chirang         | 03-03-1974       | 530.00             | 44                  | 407        | FOR/Esst./61/66/Pt/74 dtd. 03/03/74   |
| 19     | Mohanpur F.V.          | Chirang         | 25/02/47         | 118.87             | 50                  | 727        | A/87 dt. 25/02/47                     |
| 20     | West Mohendrapur F.V.  | Chirang         | 03/03/67         | 84.34              | 47                  | 505        | For/Estt/61/66/pv/74 dtd 03/03/67     |
| 21     | East Mohendrapur F.V.  | Chirang         | 25/02/47         | 174.25             | 50                  | 700        | A/87 dtd. 25/02/47                    |
| 22     | Ouguri F.V.            | Chirang         | 25/02/47         | 29.99              | 28                  | 449        | A/87 dtd 25/02/47                     |
| 23     | ShyamsingKilla F.V.    | Chirang         | 25/02/47         | 333.55             | 30                  | 410        | A/87 dtd.25/02/47                     |
| 24     | Saralpara F.V.         | Chirang         | 07/09/73         | 282.20             | 125                 | 3000       | FG/LAC/18/11/93 dtd. 07/09/73         |
| 25     | Utapani F.V.           | Chirang         | 21/01/67         | 94.00              | 73                  | 570        | FG/LAC/40/11/66 dtd 21/01/67          |
|        |                        |                 |                  | 4478.49            | 1229                | 21441      |                                       |

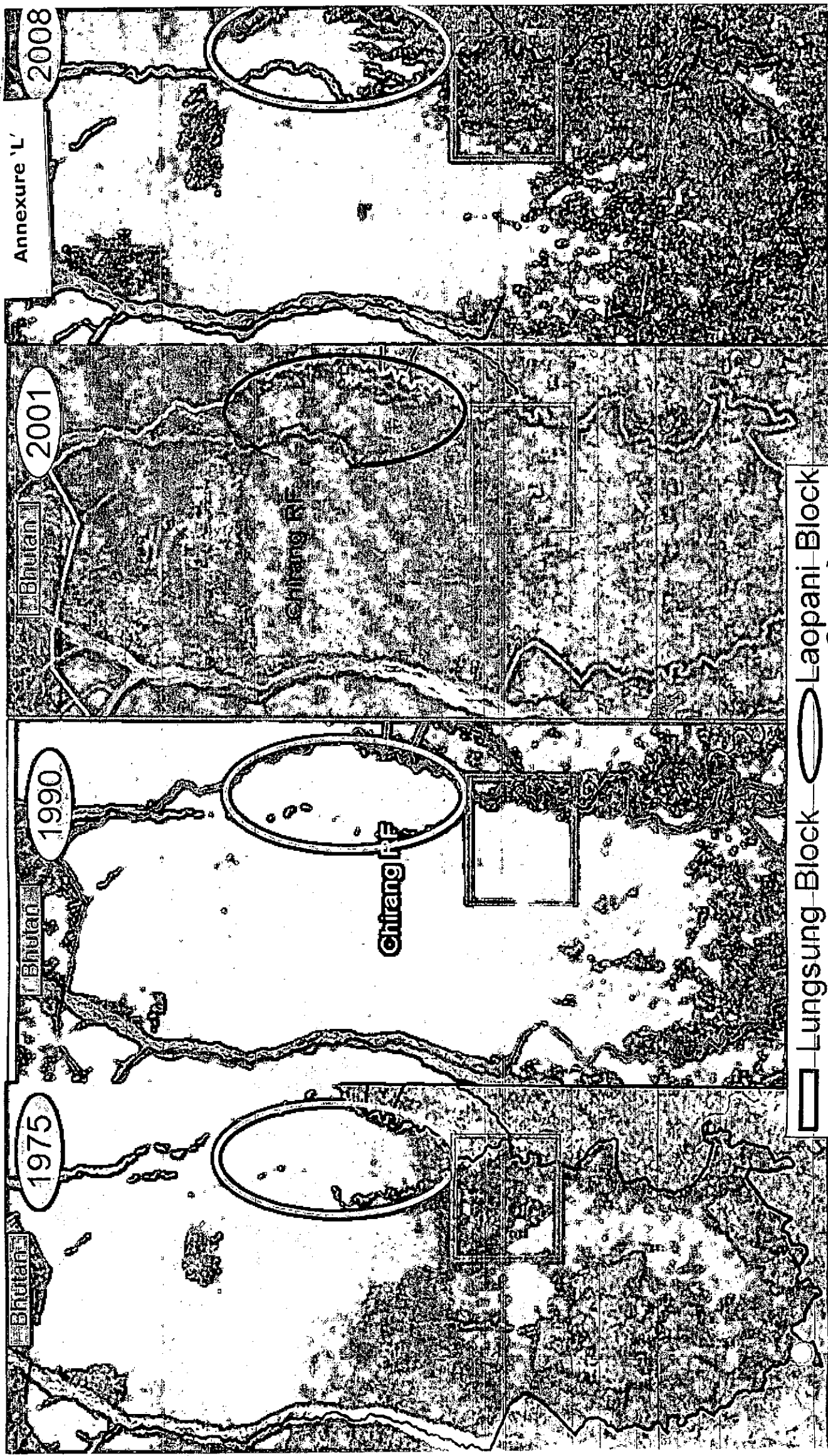
## Statement of Evictions done in Chirang RF under Haltugaon Division, Kokrajhar w.e.f Decemeber 2006 to November 2010

| S.No. | Date of Eviction               | Name of Range | Name of Block | Area evicted (ha) | Number of houses demolished | Number of families evicted | Community           | Remarks     |
|-------|--------------------------------|---------------|---------------|-------------------|-----------------------------|----------------------------|---------------------|-------------|
| 1     | 7/1/2005                       | Utapani       | Saralpbanga   | 300               | 83                          | 38                         | Rabha, Nepali, Bodo |             |
| 2     | 01/12/2006                     | Gaurang       | Lungsung      | 700               | 140                         | 83                         | Adivasi             |             |
| 3     | 3/13/2007                      | Utapani       | Saralpara     | 50                | 20                          | 20                         | Adivasi             | 1 Arrested  |
| 4     | 3/18/2007                      | Utapani       | Khungring     | 200               | 45                          | 30                         | Bodo                |             |
| 5     | 3/27/2007                      | Utapani       | Saralpara     | 100               | 50                          | 50                         | Adivasi             | 4 Arrested  |
| 6     | 5/11/2007                      | Utapani       | Saralpara     | 50                | 20                          | 20                         | Adivasi             |             |
| 7     | 5/18/2007                      | Gaurang       | Lungsung      | 700               | 193                         | 150                        | Adivasi             |             |
| 8     | 11/4/2007                      | Utapani       | Saralpara     | 200               | 82                          | 50                         | Adivasi, Nepali     |             |
| 9     | 4/3/2008                       | Utapani       | Saralpara     | 100               | 50                          | 50                         | Adivasi, Nepali     | 4 Arrested  |
| 10    | 28-01-2009<br>to<br>30-01-2009 | Utapani       | Saralpara     | 1000              | 300                         | 300                        | Adivasi, Bodo       |             |
| 11    | 08-02-2009<br>to<br>09-02-2009 | Utapani       | Saralpara     | 200               | 80                          | 80                         | Adivasi, Bodo       |             |
| 12    | 3/15/2009                      | Utapani       | Saralpara     | 250               | 100                         | 100                        | Adivasi, Bodo       |             |
| 13    | 8/19/2009                      | Utapani       | Saralpara     | 500               | 200                         | 200                        | Adivasi, Bodo       |             |
| 14    | 12-11-2009<br>to<br>14-11-2009 | Utapani       | Saralpara     | 1000              | 400                         | 380                        | Adivasi, Bodo       |             |
| 15    | 1/25/2010                      | Utapani       | Saralpara     | 100               | 30                          | 30                         | Rabha               |             |
| 16    | 3/6/2010                       | Jharbari      | Khalashi      | 13 khutties       |                             |                            |                     |             |
| 17    | 30-10-2010<br>to<br>31-10-2010 | Gaurang       | Lungsung      | 4000              | 1000                        | 1000                       | Bodo, Adivasi       | 33 Arrested |
| 18    | 11/3/2010                      | Utapani       | laopani       | 2000              | 500                         | 500                        | Bodo                |             |

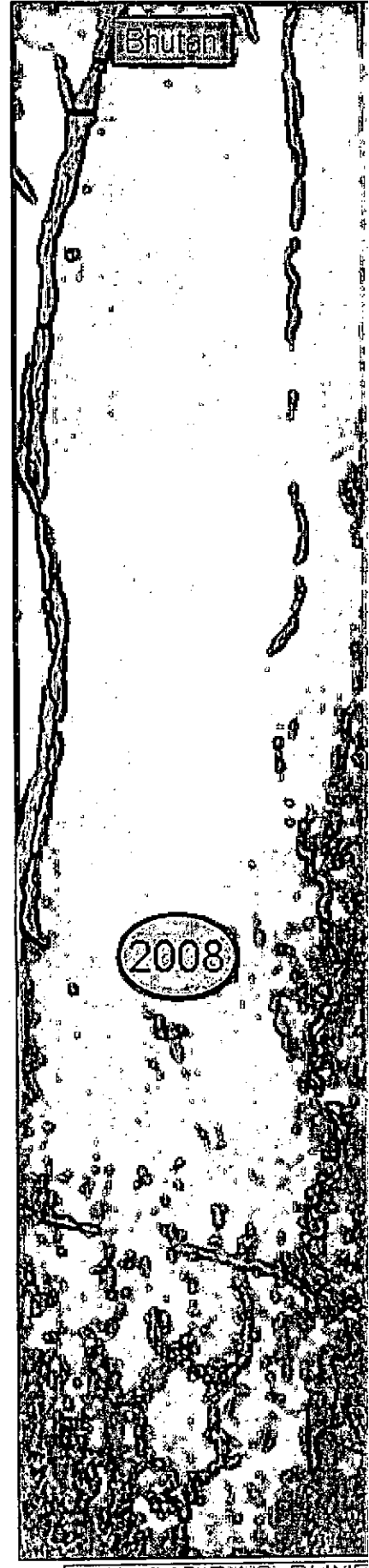
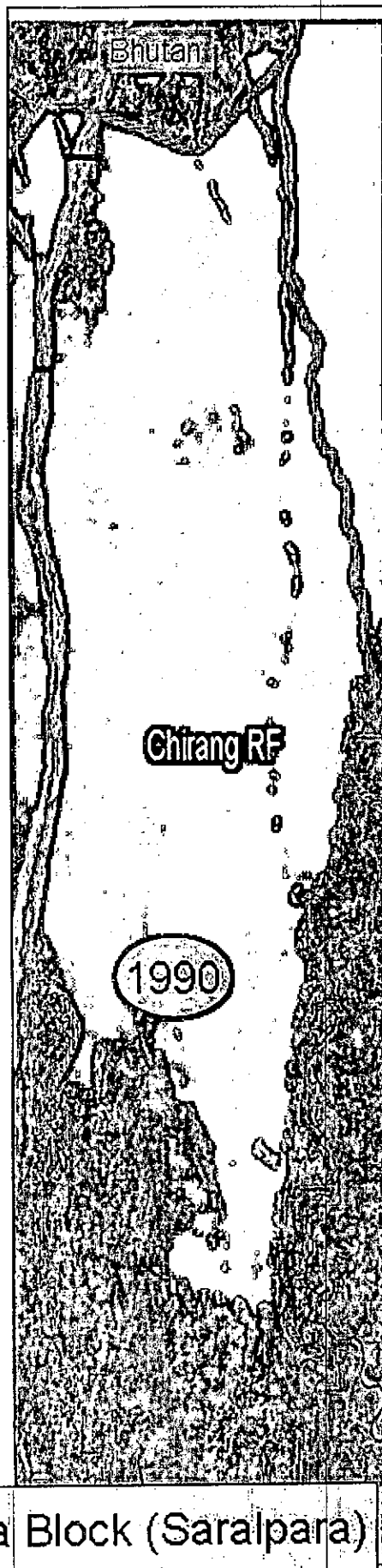
11200

# SATELLITE PICTURE SHOWING LUNGSUNG & LAOPANI OVER A PERIOD OF TIME

The encroachments started AFTER 1990



# SATELLITE PICTURE SHOWING CHIRANG RF OVER A PERIOD OF TIME



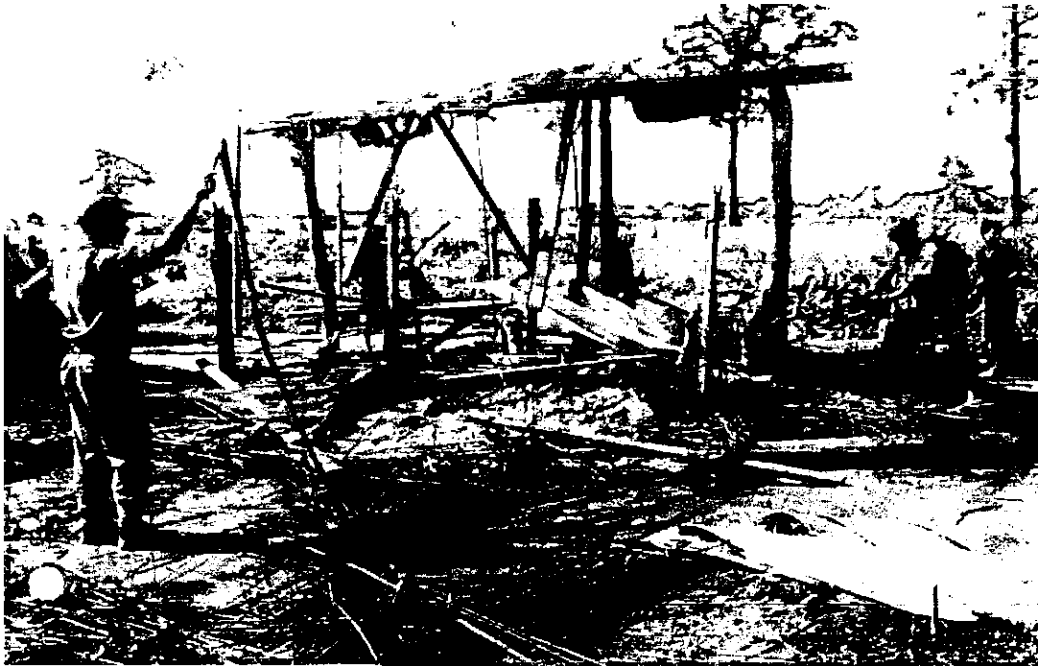
Saralbanga Block (Saratpara)

# Eviction Notice



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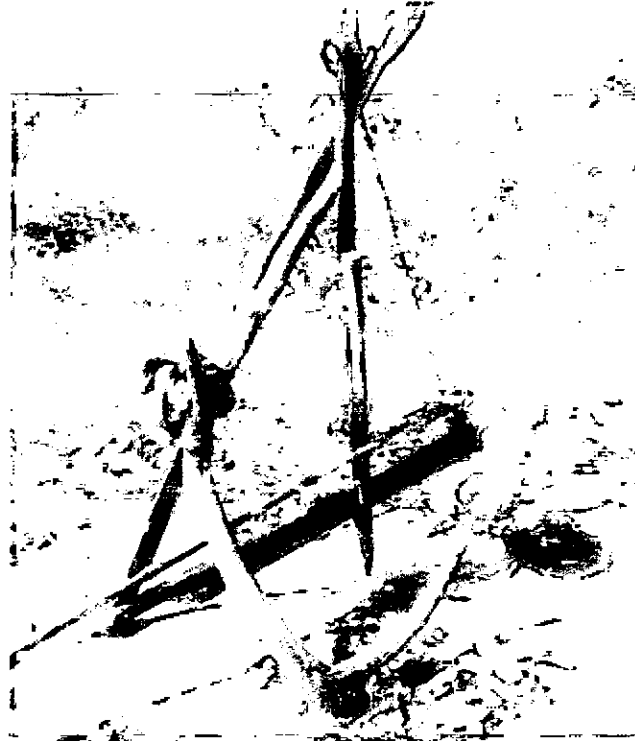
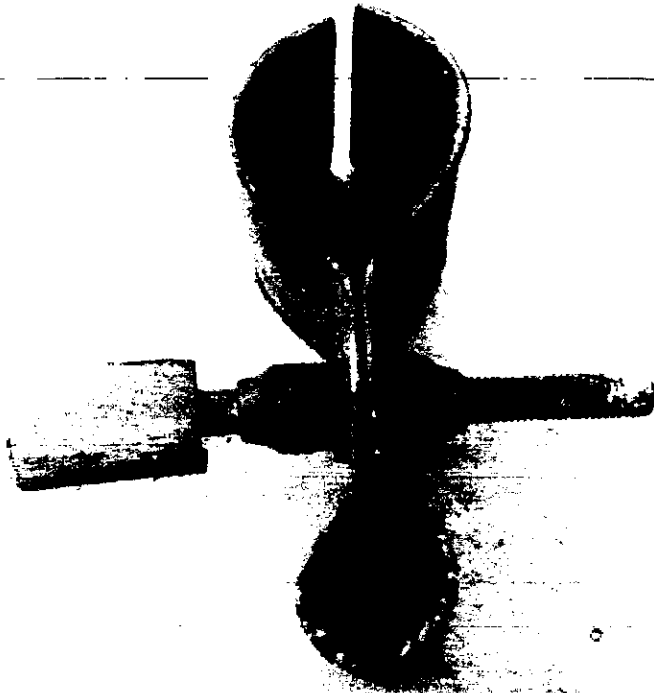
# Dismantling of Huts (1/80)



# Forest Destruction (1981)



# (490) Wildlife Crimes



WILDLIFE HUNTING & KILLING BY THE ENCROACHERS



491

Monitor Lizard and Fresh Water Turtles – Endangered and Rare species



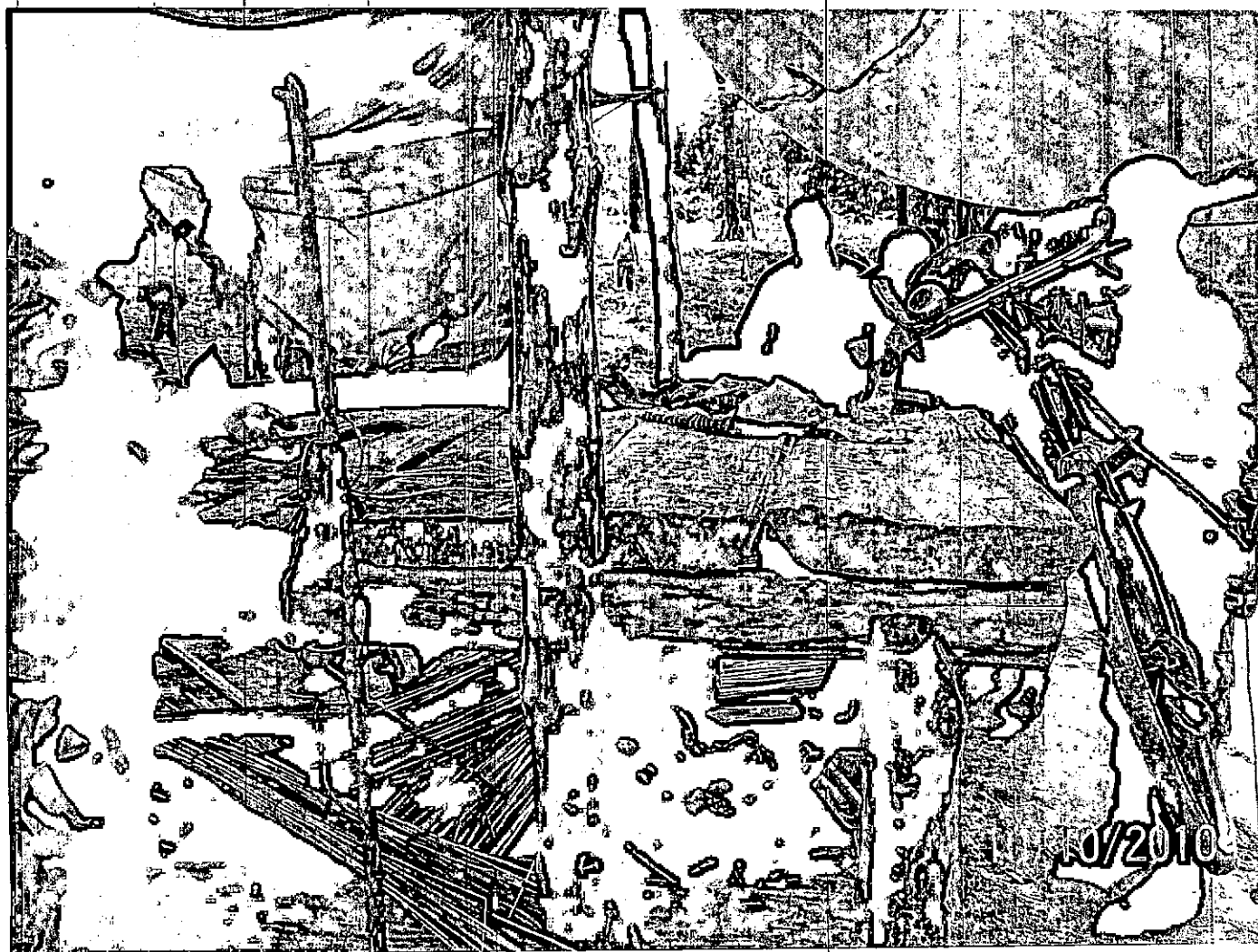
Horn Bills are rare and unique species of the ecosystem

# DESTRUCTION OF FORESTS BY ENCROACHERS IN SARALPARA

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5. Clearing the Forest for cultivation



6. Temporary huts made by the encroachers

# DESTRUCTION OF FORESTS BY ENCROACHERS IN SARALPARA

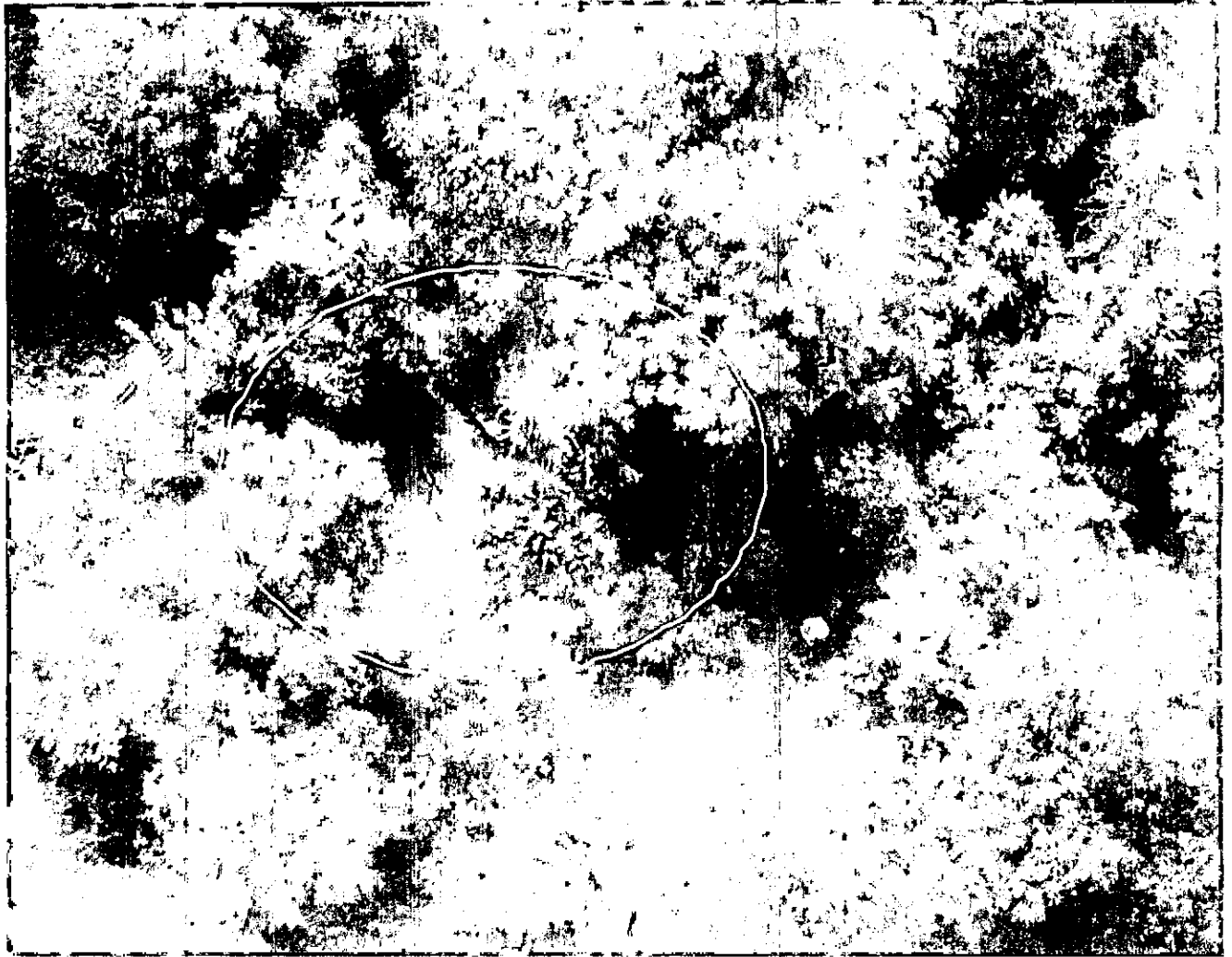


3. Burning of forests after felling the trees



4. Clearing the forests

# DESTRUCTION OF FORESTS BY ENCROACHERS IN SARALPARA

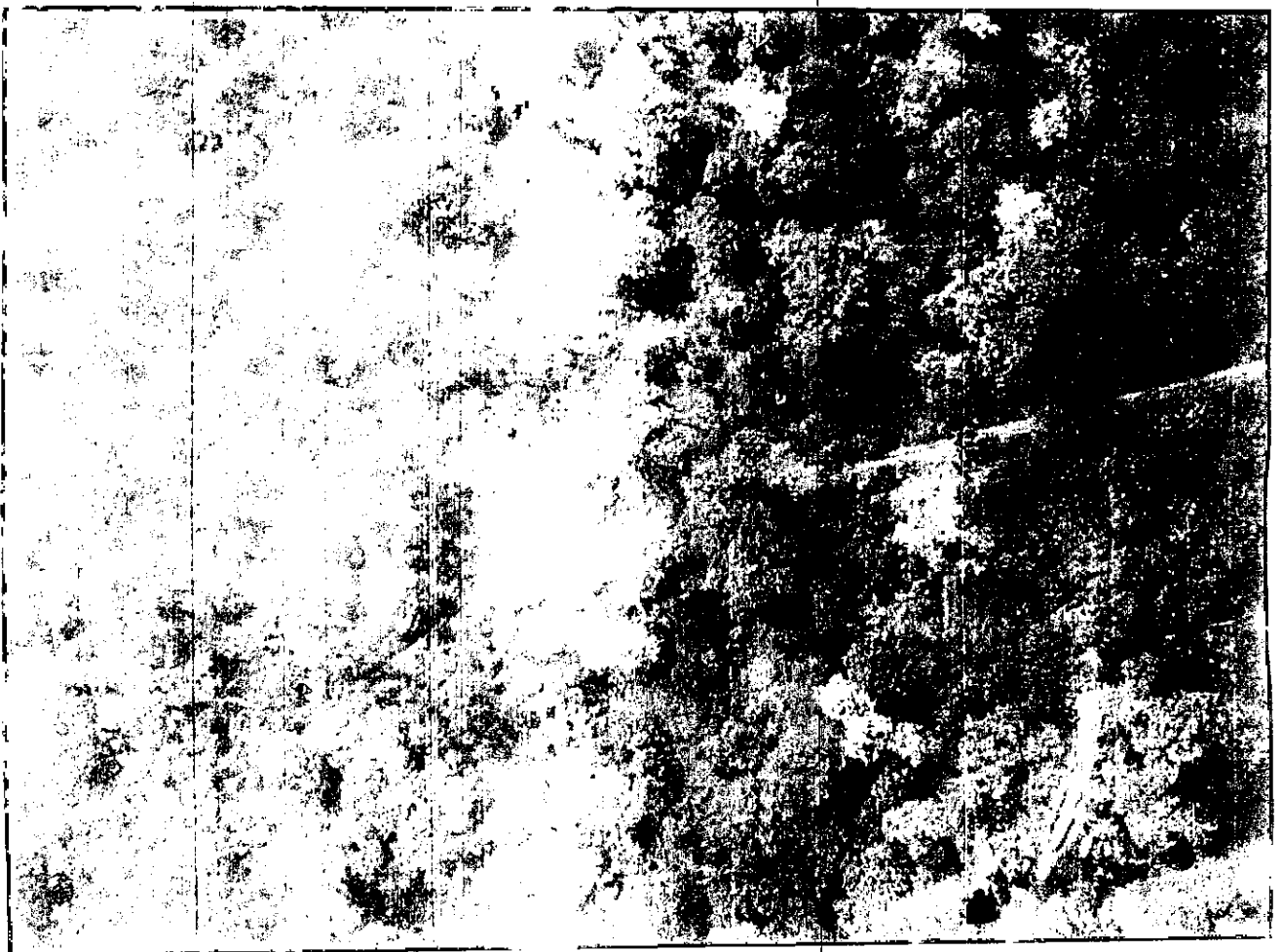


1. Setting up camps inside RF in the initial stage

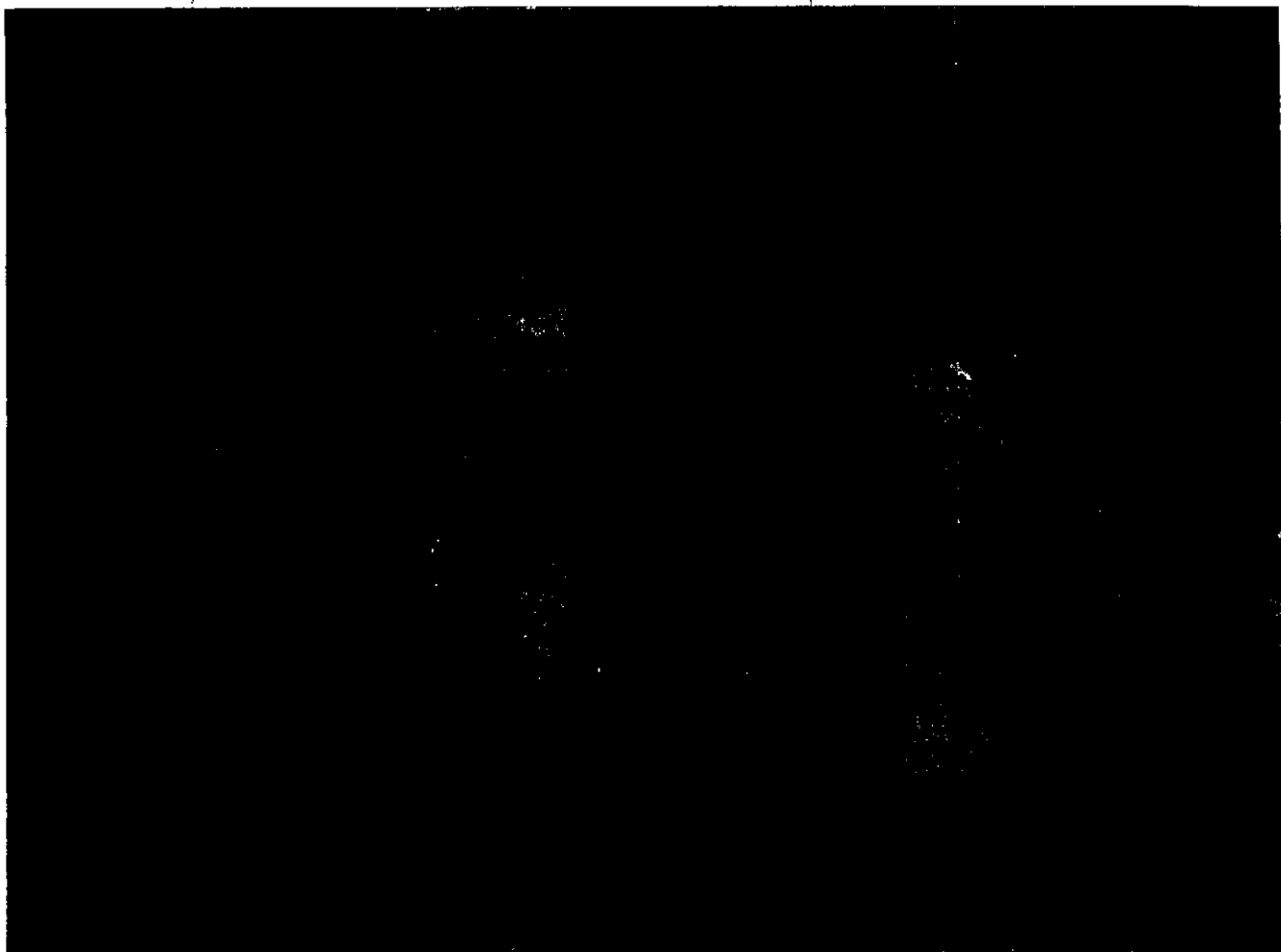


2. Felling of valuable trees

# AERIAL VIEW OF CHIRANG RESERVE FOREST

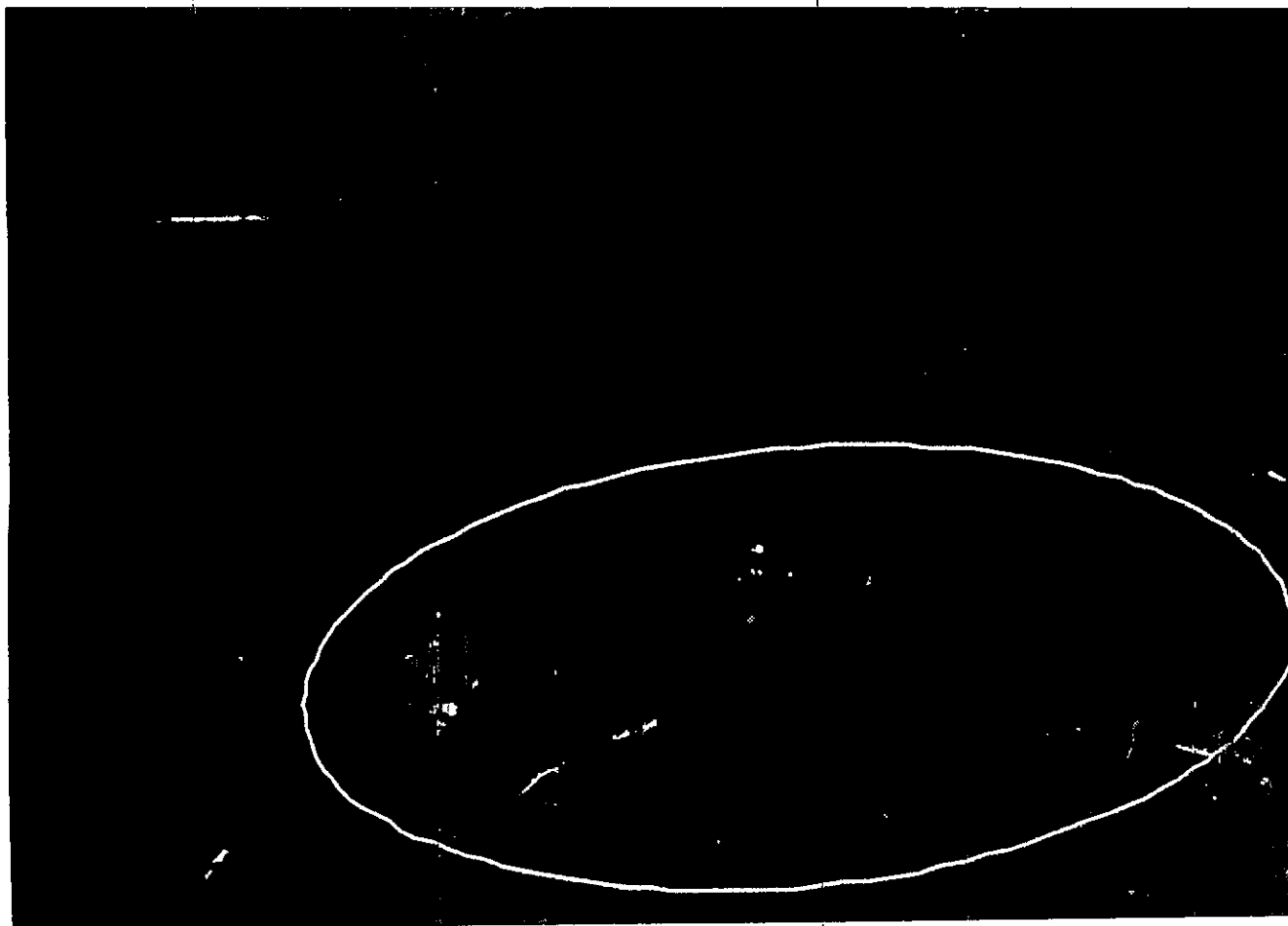


**AERIAL VIEW OF ENCROACHMENTS IN SARALPARA AREA.**



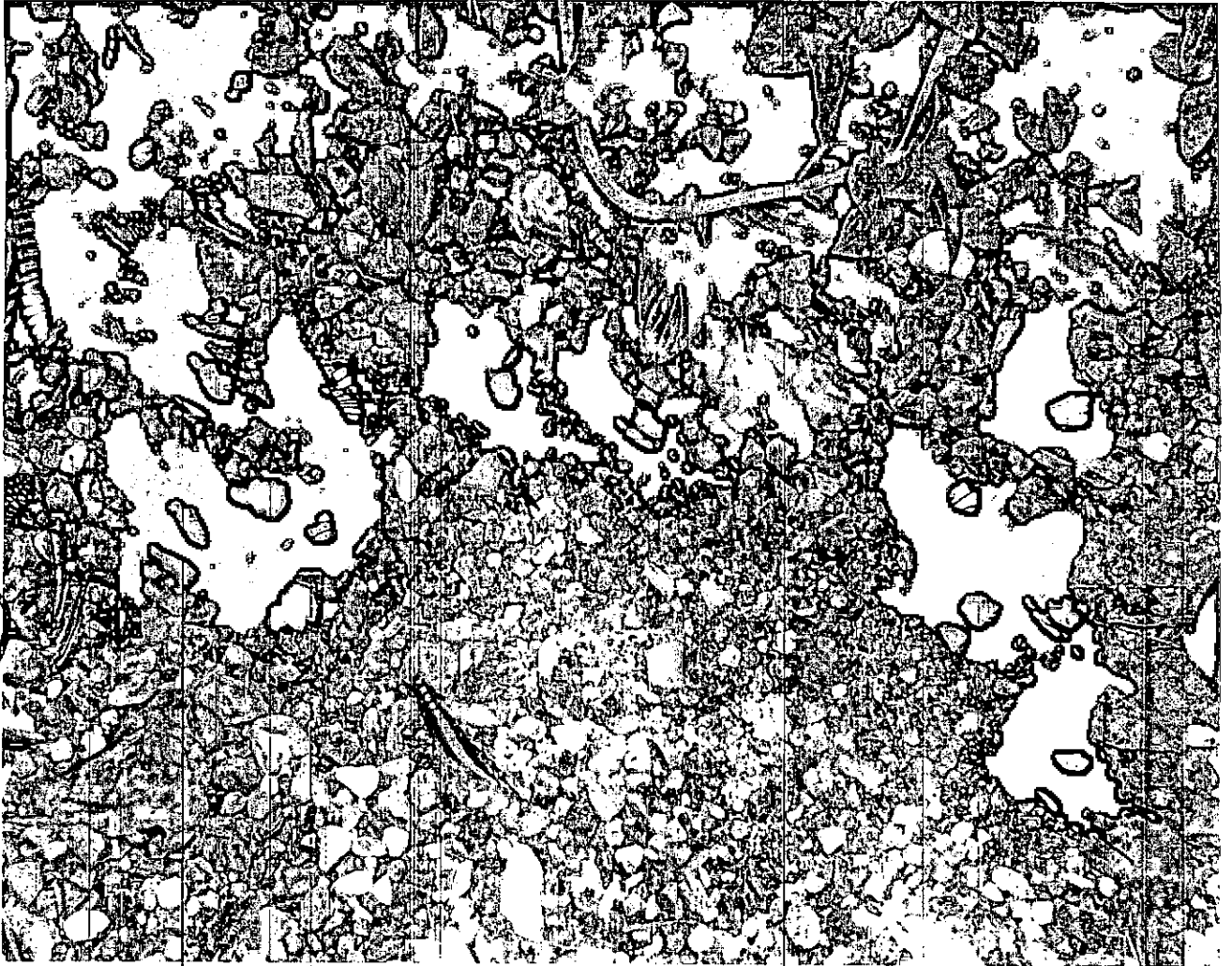
(496)

**DE- FORESTED AREA IN SARALPARA**

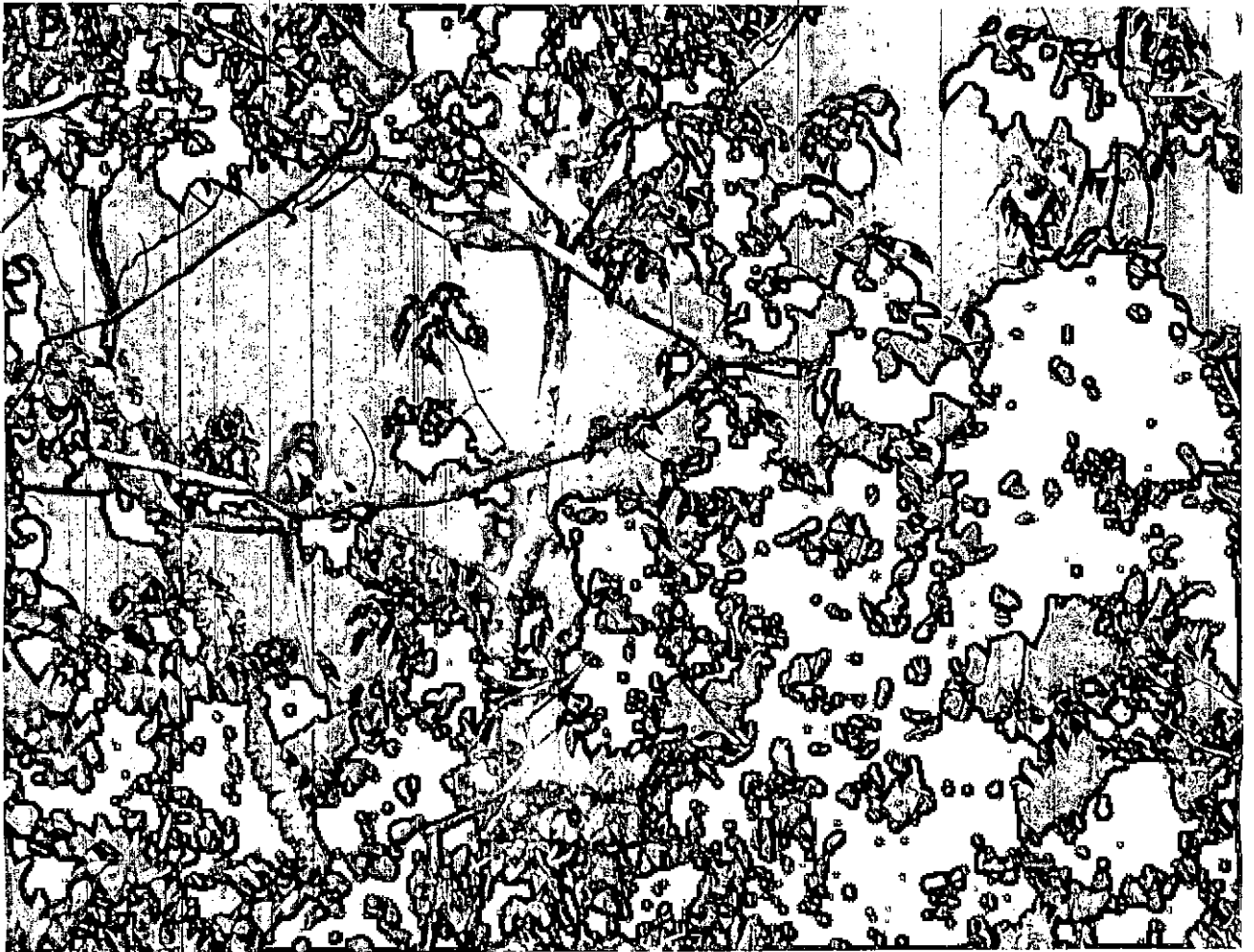


**NEW ENCROACHMENTS IN SARALPARA**

## NATURAL WEALTH OF CHIRANG RESERVE FOREST



**BUTTERFLIES**- More than 175 species; high density of butterfly population

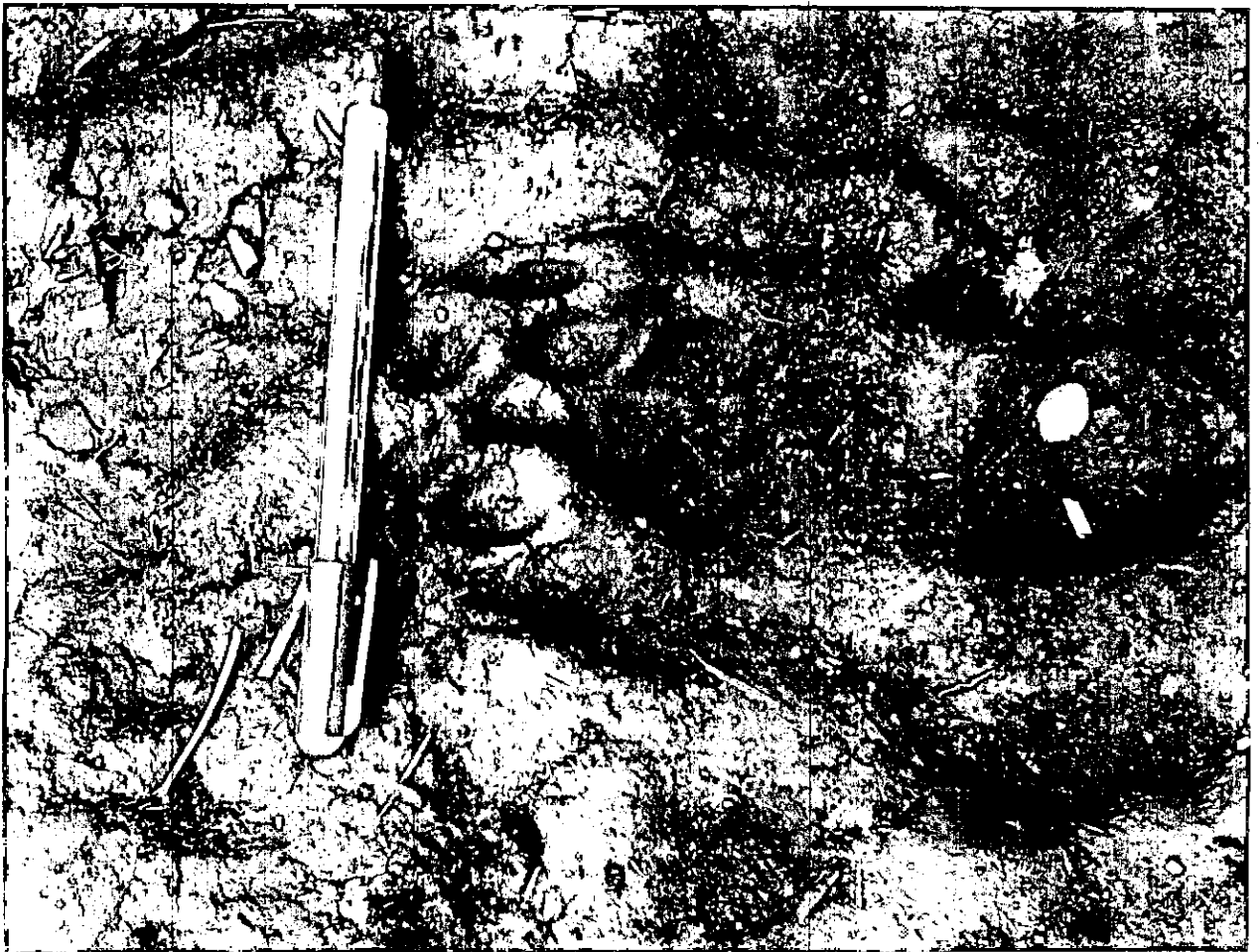


**GOLDEN LANGURS** – endemic and endangered

# NATURAL WEALTH OF CHIRANG RESERVE FOREST



**Chirang Reserve Forest is an Elephant Reserve**



**Chirang RF is a part of Manas Tiger Reserve & Manas Biosphere Reserve**

## BODOLAND TERRITORIAL COUNCIL SECRETARIAT::: BODOFA NWGWR, KOKRAJHAR

Department of Forests & Wildlife

No.BTC/Forest-44/2010/95.

Dated Kokrajhar, the 29<sup>th</sup> October, 2011

From : Sri M.C. Sahu IAS  
Principal Secretary  
Bodoland Territorial Council, Kokrajhar.

To : The Joint Secretary to the Govt. of Assam,  
Political (A) Department,  
Dispur, Guwahati-06.

Sub. : Submission of action taken report in connection with NHRC Case  
No.297/3/11/2010/UC.

Ref. : 1. Your letter No.PLA.5/2011/89, dt. 14/9/2011.  
2. This department earlier letter No.BTC/Forest-44/2010/79, dt. 8<sup>th</sup> September, 2011.

Sir,

With reference to the above, I have the honour to inform you that the Divisional Forest Officer, Haltugaon Division carried out an eviction operation at Lungsung and Laopani reserved Forest on 30<sup>th</sup>, 31<sup>st</sup> October 2010 and 3<sup>rd</sup> November, 2010 to make that area of Reserved Forest land free from encroachers.

During the evictions encroachers belonging to Bodo, Nepali, Adivasis, Garo, Rabha were evicted. The Eviction was carried out only to protect virgin forest and not to harm any person of any community. As the Forest is a transferred subject to Bodoland Territorial Council under Sixth Schedule of the Constitution, the Council has the legal and administrative responsibility in protecting the forests within the Council for the larger benefit of the Society.

Reply to the observations made in Magisterial Enquiry Report:

Para (i) to (ix) In the report, facts on the ground have been stated.

Para (x) It is asserted that forest department did not burn any huts. The encroachers themselves perhaps burnt their huts may be to flare up the issue and put the blame on the eviction team. The Magistrate and Police officers were also present at the time of eviction. As stated in the enquiry report the encroachers are still occupying the encroached forestland and cultivating it and rearing cattle, Pig etc. The status of the encroachers will be determined as per the Schedule Tribes and Traditional Forest Dwellers Recognition of Forest Rights (Act. 2006).

As per decision taken during departmental meeting in BTC on 07-05-2011, the survey of the encroached areas & villages in Ripu Reserve, P.R.F. under Haltugaon Division have been entrusted to the DFO, Haltugaon Division. The survey is under process and it is expected that the task will be completed within a few days. In this census/survey all encroached villages are being covered including the evicted villages/families of Lungsung and Laopani Forest Block.

Further, I would like to inform you that the Bodoland Territorial Council is also examining the matter for settlement of the encroachers elsewhere out side the Forest Reserve.

Encls. : As stated above.


Yours faithfully,

Sd/-  
Principal Secretary,  
Bodoland Territorial Council,  
Kokrajhar.

Memo No.BTC/Forest-44/2010/79(A),

Dated Kokrajhar, the 29<sup>th</sup> October, 2011Copy to :

1. PS to Deputy Chief, I/c Forest etc BTC, Kokrajhar.
2. The Principal Chief Conservator of Forest, Assam & Head of Forest Force, Rehabari, Ghy-8
3. The Chief Conservator of Forest, BTC, Kokrajhar.
4. The DFO, Haltugaon Division, Kokrajhar.

  
Principal Secretary  
Bodoland Territorial Council,  
Kokrajhar

Form No. XL-A(Part) Form No. 137

FIRST INFORMATION REPORT

First information of a cognizable crime reported under Section 154, Criminal Procedure Code

POLICE STATION - KOKRAJHARSUBDIVISION - KOKRAJHAR

DIST - KOKRAJHAR

Date and hour of occurrence on → 31/10/11.

Case No. : 22/2011

| Date and hour when Reported | Place of occurrence and distance and direction from Police Station | Date of despatch from Police Station |
|-----------------------------|--|--------------------------------------|
| 25/11/11<br>at 3 PM.        | Lungchung Nandang<br>25 KM. NORTH EAST.                            | 26-10/11.                            |

13.- A first information must be authenticated by the signature mark or thumb impression of informant attested by the signature of the officer recording

| Name and residence of informant and complainant                                   | Name and residence of accused   | Description of offence with Section and of property carried off if any | Steps taken regarding investigation explanation of delay in recording information | Results of the Case |
|---|---|--|---|---------------------|
| Sl. No. 516 of Gida Hamdunam<br>vill - Lungchung Nandang<br>PS - Dist. Kokrajhar. | Hamdunam Forest Range<br>and Lungchung Forest Range<br>Dist. Kokrajhar. | 3261<br>649-143/436/304/100 I.P.C.                                     | Sg. Sankardeb Roy<br>will investigate the case.                                   |                     |

Signed \_\_\_\_\_

Designation \_\_\_\_\_

(FIRST INFORMATION TO BE RECORDED BELOW)

Received the written report from the complaint and treated as F.I.R. which is enclosed herewith.

25/10/11  
OFFICER IN CHARGE  
KOKRAJHAR  
DIST. KOKRAJHAR  
25/10/11

12/5,

ਕਰਮ :- (ਅਸ) ਦੀ ਮਦਦ - ਉਸਦੀ ਪਾਇਲਟ  
 (ਅਸ) ਮੁਕਾਬਲੇ ਲਈ

শ্রী-কিছু - (কিছু)

ਮਿਤਾ ਗਿਆ 6 ਘਰ ਇਕ ਮੁਸ-  
ਸਾਤ ਨੌਰੂ ਕਦਮ ਲੁਕੀ-  
(ਸਾ: ੬ ਸਿਮਰਤੀ)

2000 3 1000 1000 1000

[illegible]

ଡ଼ାକ୍ତର ବର୍ଷ ।  
 ଏହି ଡ଼ାକ୍ତର କାମର ଗୋଟିଏ  
 ଗୋଟିଏ ମାତ୍ରାଟିକ - ଗୋଟିଏ ଗୋଟିଏ ବିଭିନ୍ନ  
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 ଗୋଟିଏ ଗୋଟିଏ ଗୋଟିଏ କାମର - ଗୋଟିଏ ଗୋଟିଏ

Sw, for, 12

বিচক্ষণতা- অস্বিদক্স মোৰা অৱস্থাত  
মোৰ সাক্ষীমা- মোৰ পুত্ৰক- ডেছাৰ কাৰ।  
শিক্ষাদান- অস্বিদক্স হৈ- আন্তঃ অৱস্থাত  
বহুবাহনী- মন্থ PASHRA অৱস্থা মন্ত্ৰী-শ্রীমতী  
প্রতিষ্ঠান বালী- বন্ধ- বাউ দেউৰা- অস্বিদক্স মন্ত্ৰী  
অস্বিদক্স বিচক্ষণতা- কলকাত্তাৰ মোৰ এন. বি.  
(RNB) ইতিবাচক চিকিৎসা দীন হৈ অস্বিদক্স।  
অস্বিদক্স শিক্ষা টোল- বিজ্ঞ- দুই মাৰ ইতি-  
মন্ত্ৰী হৈ মুক্তি অস্বিদক্স। কিন্তু মোৰাকালি  
২৬/৩/২০১১ ইয়া অস্বিদক্স- অস্বিদক্স ৪:০০ টো মান,  
বহুত কষ্ট- চিকিৎসা কৰি- ঘৰত থকা বহন  
কৰি।

ইতি নিম্নলিখিত শিক্ষা হৈ  
গুনাই-

১৫/১০  
 বঙ্গ।  
 (১৫/১০) ৩০ দিনের মধ্যে  
 মঙ্গলবার ৩০/১০/১৯৩৩  
 আত্রিক দুইটি মঙ্গলবার  
 ১৫/১০ ১৯৩৩  
 কার্য শেষ হইয়াছে  
 ৩০/১০

आयुधन कार्या-

[illegible]

503

To, Officer-in-Charge,  
Bishmern P.P.

Sub:- FIR. regarding death of my son  
Nangal Hembrom due to burn  
injury.

Compld. - Sri Kishan Hembrom  
S/O. - Sri Sida Hembrom.  
Vill. - Lung sung, Kadangwty  
P.O. - Bishmern  
P.S. & Dist. - Kokrajhar, BTC.

Sir, With due respect I have the  
honour to report that as per order  
of B.T.C. Administration, on last  
21st. Oct/2010. a huge eviction party  
conducted eviction in our village and  
set fire to the houses under the leader-  
ship of DFO, Haldagaon Division  
Range of Gourang Range.

At that time my wife was  
busy with works keeping my son on  
bed under my house. In absence of  
me the eviction party suddenly set  
fire to my house as a result  
my son received burnt injury  
who was sleeping and he was admitt-  
ed at R.M.B. Civil Hospital, Kokrajhar  
for treatment with the monetary  
help of P.A.J.H.R.A (NGO) and Hon'ble  
Minister Smt. Promila Rani Brahmoo.  
On 23/11/2011 my son had been died in  
my house who was under treat-  
ment in critical condition for the  
last two months due to burnt  
injury.

So, I pray for necessary help  
regarding death of my son.

Contd.

(504)

So your honour may kindly be  
taken necessary lawful action.

Yours faithfully

Sd/- Krishan Hembram

Sd/- Sida Hembram

Koll/- Lung Sing

Kadamguri

RO - Brahman

P.S. Dist - Kokrajhar

Received and registered vide

Kjr. P.S. C/NO-22/11 dt. 25/01/2011.

Sd/- S. S. Sanyal Kjr. DP

op C. Kjr

dt. 25/01/11.

505

## INQUEST REPORT FORM

1. STATE ..... DIST. .... P.S. ....  
FIR/A.D. NO./U.D. NO. .... YEAR .....

2. ACT SECTION .....

3. (a) Place & time where - Place Lungsiang, Kandiung  
Dead body found/traced- Date 24-1-2011 Time 4-45 PM

(b) Was the body cold/warm when found Cold

Person who showed deadbody/traced the deadbody.--

Case File  
203/12/10  
Name Shri Kishan Hembram  
20. Side Hembram  
Age 30 yrs  
Address Lungsiang, Kandiung  
Bahmani P.P.  
Bahmani - Kandiung

4. Person who identified the deadbody -

Shri Kishan Hembram  
Name Shri Kishan Hembram  
Age 30 yrs Sex Male  
Address Lungsiang, Kandiung

5. Deadbody description

Sex Male M/F .....

Approximate age 27 yrs

Approximate date & time of death 23/1/11 at 4 PM

6. Position of deadbody -

Side lying on back

7. Name & Address (if Known)

Mangal Hembram (27 yrs)  
20. Side Kishan Hembram

7. (A) Description of injury mark, if any :-

Brown injury mark  
back side the head

9. (a) Whether request made to Medical Officer to preserve Finger Prints of the deadbody  
(if unknown) Yes/No.

(b) Photograph/V.D.O. of the body both from near or long distance should be taken. I/O  
to process to the P.O. with all necessary tools.

(c) Whether Deadbody sent Post-Mortem- Yes/No.

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[2]

(d) Deadbody sent for Post-Mortem to which Hospital/Place

Hospital, Kankajhar

(e) Deadbody sent for Post-Mortem through

Whom Name 2036/437 Ratan Barman  
4 Biskarun P.P. P.S. Kankajhar

B.No. POSTING

(f) Viscera -

(In case of dead due to suspected poisoning, the M.O. to be requested to preserve the Viscera)

12. Opinion of witnesses and Police about the cause of dead and weapons or Instrument used thereof

(if any)

13. More Information/Suspicion (if any)

14. Date & Time of Inquest report Date 21/01/2011

Time 4 P.M.

15. NAME & ADDRESS OF WITNESSES & SIGNATURE :-

#### SIGN OF WITNESSES

1) 31/01/2011 (32) 1) Lakhon Soren

2) 31/01/2011 (49) 2) 31/01/2011 2 P.M.

3) 31/01/2011 (55) 3) 31/01/2011 2 P.M.

4) 31/01/2011 (33) 4) 31/01/2011 2 P.M.

All are Lungsung, Kadanguri village

Signature of the Investigating Officer

Executive Magistrate

2036/437 Ratan Barman

1) Name Bipul Saitan Das

2) Rank Executive Magistrate

3) Posting/Address Kankajhar

D. L. G.

Day of

III-THO

HIC P&S-101/200 Sch NE HICP-341 2/10/2004

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REPORT

V-MUSCLES, BONES AND JOINTS

| Left lung | Pericardium | Heart | Vessels | 1.-Injury         | 2.-Disease or deformity | 3.-Fracture | 5.-Dislocation |
|-----------|-------------|-------|---------|-------------------|-------------------------|-------------|----------------|
|           |             |       |         | Stryker on 2.2.11 |                         |             |                |
|           |             |       |         |                   |                         |             |                |

MORE DETAILED DESCRIPTION OF INJURY OR DISEASE

ABDOMEN

| 7.-Stomach and its contents | 8.-Small intestine and its contents | 9.-Large intestine and its contents |
|-----------------------------|-------------------------------------|-------------------------------------|
|                             |                                     |                                     |
|                             |                                     |                                     |

No mustard cell  
no injury mark (other than Bruise marks)  
wound -  
small of Prison 5.2.11

OPINION OF ASSISTANT SURGEON TO CAUSE OF DEATH  
SUB-ASSISTANT SURGEON

forming opinion the cause of death is due to  
Septicemia forming Prisoner was in second  
month of the entry.

Signed [Signature]  
(Dr. G. K. S. S. S.)

| 10.-Bladder | 11.-Organs of generation, external and internal |
|-------------|---|
|             |   |
|             |   |

The 25/ day of 2011

ASSISTANT SURGEON  
SUB-ASSISTANT SURGEON  
Medical & Health Officer  
N.B. Civil Hospital  
Bokrajhar

REMARKS BY CIVIL SURGEON

g/c Bichmaria P.T. for  
all - per  
[Signature]  
25/11/11

Dr. A. M. K. K. K.  
Joint Director of Health Services  
Kokrajhar (Assam)

Signed \_\_\_\_\_  
Civil Surgeon of \_\_\_\_\_

BODOLAND TERRITORIAL COUNCIL,  
OFFICE OF THE CHIEF CONSERVATOR OF FORESTS AND COUNCIL  
HEAD OF DEPARTMENT (FORESTS), KOKRAJHAR

F. No. FGW.13/Encroachment/Gen/Pt.-1/08

dated Kokrajhar the 19th September 2011

To The Principal Secretary to the Govt. of Assam,  
Environment & Forest Department,  
Dipsur, Guwahati-6

Sub: Complaint / Intimation from Tejang Chakma, Complaints Coordinator Asian Centre for Human Rights, C-3/441-C, 2nd floor, Janakpuri, West Delhi, Pin Code- 110058

Ref: 1. Case No.297/3/11/2011/U.C. dated 11/7/2011

2. Your office letter No.FRE.7/2011/93 dated Dispur 25th July 2011

3. FRE.7/2011/123 dated 24th August 2011

Sir,

Kindly refer to your office letter dated 24 August 2011 regarding submission of report in connection with NHRC case No.297/3/11/2010/UC. It is to inform you that in this connection a report has already been sent vide this letter of even No. dated 10th August 2011. A copy of the report is enclosed herewith for ready reference.

Regarding the death of the child due to alleged burning of house, I would like to submit following facts for your information and necessary action.

1. A burning house generates lot of smoke that suffocates living beings inside the house and causes even an adult man to suffer from serious problem of heart and lung condition.
2. People who are trapped inside a burning house can't breathe due to suffocation and finally die of asphyxia before flame of the fire touches the body or is close enough to it to cause burn injuries.
3. A two years old child can't survive inside a burning house long enough to get external burn injuries.
4. Huts of the encroachers may not be very big, but are big enough structures to make it impossible even for adult person to remain inside the burning hut long enough to get burn injuries on his body and then come out alive without having problem of breathing.
5. If somebody is inside a burning house till he gets his skin burned, his entire skin would have burned due to intense heat generated by then; and in any case, much before such a situation come to pass any person would have died on the spot due to Asphyxia.
6. In village situation where one can't have fire protection apparels, anybody who makes efforts to rescue others from a burning house would have also suffered from burn injuries.

In the case of Baby Mangal Hembram who was two years old at the time of death on 23rd January 2011, his burn injuries that finally caused his death after about 3 months can never be related to alleged burning of their house in view of the above facts. According to the post mortem report he died of septicaemia that was caused due to external injuries. His burn injuries can't be due to alleged burning of their house as he could not have survived in burning house so long enough to get burn injuries; moreover he had no problem in his lung and heart condition.

As already reported the allegation of burning of the houses by eviction team was made to flare up the issue of eviction. As stated in the report submitted already, eviction was carried out in the presence of a Magistrate and Police personnel, including women police, deputed for maintaining law and order and security. Huts of the encroachers were dismantled after complete search of the huts and ensuring that there was no person or any belongings of the encroachers inside the huts. The encroachers knew that they have no right over forestland under the present law of the land and

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therefore tried to politicise the eviction operation and that is why politician even from Jharkand came and visited the site and made all kinds of baseless allegations. The allegations made and the support that the encroachers are getting in the process have seriously affected the protection and conservation of verdant and virgin area of Chirang reserve forest which is within Manas Tiger Reserve and Riphu-Chirang Elephant Reserve and is a part of Manas Biosphere Reserve. At present the forest department is facing onslaught of encroachers who are indiscriminately clearing forest areas for cultivation and construction of huts encouraged by the condition of helplessness faced by the department to remove the encroachers by conducting eviction operation. Though there is a standing instruction of the Supreme Court of India to remove all illegal activities inside forest, the forest department has not been able to carry out the order effectively in view of lack of concern from all sections of the society. It may be mentioned here that many social organizations are instead supporting the encroachers in forestland.

In view of the above, it is requested that a strong view may please be taken by the State Govt. on the issue of eviction of encroachers from forestland and necessary direction may please be given to remove all encroacher by all means in the interest of protection and conservation of forest and wildlife for the benefit of the posterity.

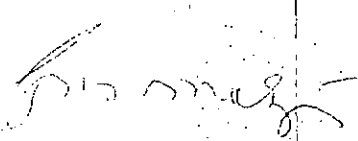
In this connection, I have enclosed herewith also the report submitted by the DFO Haltugaon Division that was not sent with earlier report sent from this office for your information and necessary reference.

Yours faithfully,

(G. C. Basumatary)  
Chief Conservator of Forests,  
Bodoland Territorial Council, Kokrajhar

Copy sent to:

1. The Principal Chief Conservator of Forests, Head of Forest Force, Assam, Rehabari, Guwahati-8, Assam, for favour of his information and necessary action;
2. The Principal Secretary, Bodoland Territorial Council, Kokrajhar, for information and necessary action; and
3. The Divisional Forest Officer, Haltugaon Division for information.

  
(G. C. Basumatary)  
Chief Conservator of Forests,  
Bodoland Territorial Council, Kokrajhar

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 OFFICE OF THE SUPERINTENDENT OF POLICE, KOKRAJHAR, ASSAM;

No. KJR/Crime/230/2011/4590

Dated, Kokrajhar the 6 June/2011.

Smti. M. Chetia, ACS,  
 Under Secretary to the Govt. of Assam,  
 Political (A) Department,  
 Dispur, Guwahati, Assam.

Sub:- NHRC Case No. 297/3/11/2010/UC in connection with eviction of  
 Adivasis from Lungchung Forest Area, Kokrajhar.

Ref:- Letter No. HRC/APHQs/08/11/68, dated 28-01-11 received from  
 Addl. Director General of Police (L & O), Assam, Ulubari, Guwahati.

Sir,

In inviting a reference to the subject cited above, I have the honour to inform you that on 24/01/11 at around 4.00 P.M. Sri Kishun Hembrom, S/O Sri Sida Hembrom of village Lungchung Kadamguri, PO – Bishmuri, PS & Dist. – Kokrajhar along with some persons appeared at Bishmuri O.P. and informed that his son Mangal Hembrom, age 2 ½ years died due to burning. On examination, he stated that on 31/10/10 a group of forest officials under the direction of BTC authority conducted eviction drive and set on fire thier houses. During the time of eviction drive his wife was working after keeping the child on the bed for sleeping. At that time the forest party set on fire his house but some how the child has been rescued by her and after a few days the child has been admitted in R.N.B. Civil Hospital, Kokrajhar for medical treatment. But Mangal Hembrom died on 23/01/11 at around 4.00 P.M. In connection with that incident, complainant Kishun Hembrom lodged an ejahar and a Police case has been registered vide Kokrajhar P.S. Case No. 22/11 U/S 143/436/326/304(A) I.P.C.

In course of investigation, it is learnt that about 917(nine hundred seventeen) numbers of families belonging to Adivasi and Bodo community were living in Lungchung Kadamguri forest area. On 13/10/10, they have been intimated to vacate the forest land by issuing notice and verbally but they did not follow the instruction because of which on 30/10/10 and 31/10/10 an eviction drive was carried out under the leadership of Dr. Ramesh C. IFS, DFO, Haltugaon Division assisted by Sri Ranjit Kr. Brahma, ACF, Sri Nikhil Ch. Nath, ACF, Sri Dhiren Basumatary, Range Officer, Ultapani Forest Range, Sri Manik Ch. Brahma, Range Officer, Jharbari Forest Range, Sri Dimbeswar Das, Range Officer, Gaurang Forest Range and volunteers of NGO, camping at Dighlipara, Ultapani and Jharbari and hired labourers. Sri Bipul Saikia, Executive Magistrate, Kokrajhar, S.I. Hemanta Haloi, I/C Bishmuri and his staff were also present at the time of eviction. It is also learnt that nobody had informed the forest, civil and Police officials regarding burning incident of a child on that day during eviction process. It is pertinent to mention here that the child died on 23/01/2011 at his house after being released from the RNB Civil Hospital, Kokrajhar and the child was admitted

not to be  
 made copy  
 07/01/11  
 I/C, Bishmun P.P.  
 S. & Dist- Kokrajhar  
 Date 18/1/11

(512)

in the Hospital on 06/11/10 and FIR was lodged only after the death of the  
gap of around 3 (three) months.

During investigation of the case, the I/O visited the P.O. and drew a map of the P.O. He also examined the available witnesses at the P.O. and recorded their statements U/C 161 Cr.P.C. I/O arranged to hold inquest over the dead body of child through Executive Magistrate and after that sent the dead body for P.M. examination in R.N.B. Civil Hospital, Kokrajhar. I/O also examined and recorded statements of the available Government officials and others who were present during the eviction. However, all of them denied the charges and stated that they have not burnt down the houses of the evicted families.

The case is presently pending for further investigation.

Yours faithfully,

*[Signature]*  
Superintendent of Police,  
Kokrajhar, Assam.

Memo No. KJR/Crime/230/2011/4591-93  
Copy to:-

Dated, Kokrajhar the 6 June/2011.

- 1) The Addl. Director General of Police (L & O), Assam, Assam Police Headquarter, Ulubari, Guwahati - 7 for favour of kind information.
- 2) The Inspector General of Police, BTAD, Kokrajhar for favour of kind information.
- 3) The Deputy Commissioner, Kokrajhar for favour of kind information.

*[Signature]*  
Superintendent of Police,  
Kokrajhar, Assam

=== 000 ===

D.S. A. Das

9435322535

1/c RNB Civil  
Hospital  
KJR

GOVT  
OFFICE OF THE SUPERINTENDENT  
RNBCH/ 1705

M.  
CIVIL HOSPITAL, KOKRAJHAR.  
Dated Kokrajhar the 12<sup>th</sup> Oct/11.

(513)

To,

Officer-in-Charge,  
Kachugaon P.S.  
Kachugaon.

Sub:- Submission of treatment record in connection with Kokrajhar P.S. Case No. 22/11 U/S 143/436/326/304 (A) IPC.

Ref:- Your letter No. Nil dtd. 06/10/11.

Sir,

With reference to the subject & ref. No. I have the honour to send herewith the detail records of treatment given to the patient Sri Mongal Hembram who was admitted in this hospital on 06/11/10 at 4.20 P.M. and the patient was referred to higher center on 11/11/10 at 10 A.M. for better treatment.

Enclosed:-

1. Treatment Records- 3 Nos.

Yours faithfully,



Superintendent,  
R.N.B. Civil Hospital, Kokrajhar.

Dated Kokrajhar the 12<sup>th</sup> Oct/11.

No. RNBCH/

Copy to:- The Superintendent of Police, Kokrajhar for favour of information.

Superintendent,  
R.N.B. Civil Hospital, Kokrajhar.

*Original to be true copy*  
*[Signature]*  
I/C, Bishmun P.P.  
P.S. & Dist- Kokrajhar  
18/12/11

(514)

RAJHAR, B.T.C. (ASSAM)

CIVIL HO

REG. NO. :- 1425/10  
 BED NO. :- 1/16  
 WARD NO. :- C.W.  
 AGE :- 24/10  
 SEX :- M  
 CASTE :- B.C.  
 RELIGION :- H.  
 OCCUPATION :- Ch.  
 Sign. of M.C.

NAME :- Mongal  
 :- Jowar  
 :- Kadungur  
 :- Kanigaor  
 :- Kolarajhar

DIST. :-

DATE & TIME OF ADMISSION :- 6/11/10 at 4:30 PM

DATE & TIME OF DISCHARGE :- 11/11/10 10 AM

DIAGNOSIS :- F/GM skin defect

CASE HISTORY

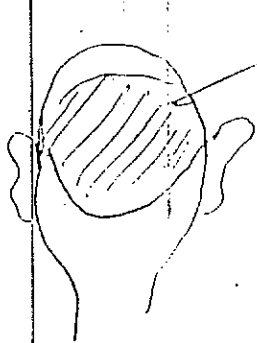
H/O Burn injury  
 in head few  
 days back.  
 Pulse - 86/min.  
 R/L - normal  
 Oedema / chloery  
 Tongue  
 Burn scar seen  
 in occipital area  
 S/S - Surgical opinion

TREATMENT

1. Sanocef - 1000  
 2. B.C.  
 3. R.L - Normal  
 4. Betadine antiseptic  
 5. To apply to

Copy to  
 P.S. & Dist. Kokrajhar  
 Date 12/11/10

(515)



Bum



W. PC

Post-head

P

① by Screenshot

by Ludoctar A:U7

S. IV. RD

② IVF

S. RL slw)

③ by Dilapene

S. 1 cc IM PL

④ Family GP

S. 5ml Rth

Perceptual

pid, Rth

Adaptation & Silva

19/11/10  
Adaptation & Silva

① To shift d. Higher rank

(516)

Adv. Duxing  
Cymu sen p  
8/11/10

Antibireel do be true copy.

IC. Bishmun P.P.  
P.S. & Dist. Kokrajha  
Date 18/2/14

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**IL HOSPITAL : KOKRAJHAR, B.T.A.D. (ASSAM)**  
**DISCHARGE / CADAVER CERTIFICATE**

FSN  
NAME: *Mangal Humsan*  
*Jower Humsan*  
WILL *Kokrajhar*  
P.S.  
D.O. *Kokrajhar*  
DIST. *Kokrajhar*  
DATE & TIME OF ADMISSION: *6/11/10*  
DATE & TIME OF DISCHARGE/DEATH: *11/11/10*  
DIAGNOSIS: *Flame burn not sculp*  
TREATMENT GIVEN: *C*

*O/A OK Required*  
BED NO. *16*  
REGD. NO.: *1425/10*  
AGE *2 yr*  
SEX *M*  
OCCUPATION  
RELIGION  
BABY NOTE:  
Date & Time of Delivery  
Wt. Sex  
Condition at birth

Signature of M.O.  
*[Signature]*

*Certified to be true copy*  
*[Signature]*  
M.C. Bishmuri P.S.  
P.S. & Dist. Kokrajhar  
Date *18/12/14*

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NOTE OF KOKRAJHAR

U/S 143/436/326/304(A)

Sri Kishun Hembrom, S/O Sri Sida Hembrom of village Lungchung Kadamguri, PO- Bishmuri, PS & Dist- Kokrajhar.

Accused: Haltugaon Forest Range Office and Gaurang Forest Beat Office Staff.

Offence: U/S 143/436/326/304(A) IPC.

I/O : S.I. Sankardev Roy / S.I. Krishnadev Sarmah.

Brief :- On 24/01/11 at around 4.00 P.M. Complt. Sri Kishun Hembrom, S/O Sri Sida Hembrom of village Lungchung Kadamguri, PO – Bishmuri, PS & Dist. – Kokrajhar along with some persons appeared at Bishmuri O.P. and informed that his son Mangal Hembrom, age 2 ½ years died due to burning, while on 31/10/10 a group of forest officials under the direction of BTC authority conducted eviction drive and set on fire their houses. During the time of eviction drive his wife was working after keeping the child on the bed for sleeping. At that time the forest party set on fire his house but some how the child has been rescued by her and after a few days the child has been admitted in R.N.B. Civil Hospital, Kokrajhar for medical treatment. But Mangal Hembrom died on 23/01/11 at around 4.00 P.M. Hence the case.

Action recommended by I/O:-

1. I/O to collect a copy of the notice which was served to encroachers of Lungchung Reserve Forest to vacate it.
2. I/O to examine D.F.O. and should collect all documents relating to the eviction process and document relating to procedure for carrying out eviction in a Reserve Forest.

Addl. Supdt. of Police, (HQ),  
Kokrajhar

Dated 18-5-2012.

Memo No. KJR/SR/11/2012/3528-30.

Copy to :-

- (1) O/C Kokrajhar P.S. for information and necessary action.
- (2) S.I. Krishnadev Sarmah, I/O of the case for information and necessary action.
- (3) R.S.I. S.P's Office Kokrajhar for information.

Addl. Supdt. of Police, (HQ),  
Kokrajhar

I/C, Bishmuri P.P.  
P.S. & Dist- Kokrajhar  
Date 18/2/11

Certified to be  
true copy

