

**Changing Legal Categories-Providing Solutions or
Compounding Problems:
*A Case Study of Dibru-Saikhova Forest Division in
Assam***

FOREST CASE STUDY SUBMITTED TO
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ABSTRACT

Dibru Saikhova, one of the old growth forests in Assam, has a unique conservation history as its legal status has been constantly changing since 1891. From a Reserve Forest in 1891, a sanctuary in 1996, a biosphere reserve in 1997, it was finally constituted a National park in 1999. Dibru Saikhova is home to two forest villages Dadhia and Laika that have been dwelling inside the area for about fifty years. Every change in the legal status of the area impacted these forest villages in a huge way eventually resulting in a situation where their 'relocation' outside the area remains the only option to resolve the PA-People conflict in the area. The recent constitution of a National Park has significantly affected their lives and livelihoods. The non-compliance with the due legal process envisaged under the law for creating National Parks has further aggravated the present conflict in Dibru Saikhowa. The uncertainty of each category has also raised some critical policy questions relating to PA-people interface. The present case study thus seeks to capture the impact of such frequent changes in the legal status of Dibru Saikhova, specifically on the forest villagers dwelling inside the PA, with the help of a legal study.

GLOSSARY

Forest Villages	Villages or habitations established within the limits of reserve forests. They were designed for the purposes of providing a source of suitable local labor and for forming and maintaining plantations.
<i>Jhum</i>	Form of shifting cultivation that is practiced heavily in North Eastern States of India
<i>Pattas</i>	Lease of land
Protected Area	PA includes National Parks, sanctuaries, community reserves and conservation reserves established under the provisions of WLPA.
Reserve Forests	An area notified under the provisions of Indian Forest Act having full degree of protection. In Reserved Forests all activities are prohibited unless permitted.

LIST OF ABBREVIATIONS

AFR	Assam Forest Regulation, 1891
BR	Bio Sphere Reserves
CF	Conservator of Forests
CWW	Chief Wildlife Warden
DFO	Divisional Forest Officer
FO	Forest Officer
FSO	Forest Settlement Officer
FV:	Forest Villages
MAB	Man and Biosphere Programme of UNESCO
MoEF	Ministry of Environment & Forests
MFP	Minor Forest Produce
NP	National Parks
NWP	Non Wood Produces
PA	Protected Areas
RF	Reserve Forests
WL	Wild Life
WLPA	Wild Life Protection Act, 1972

BACKGROUND AND OBJECTIVES

The present case study is based on Dibru Saikhova forest division in the State of Assam, which is one of the old growth forests in India. Dibru Saikhova has a unique conservation history as its legal status has been constantly changing since 1891. The forest area was initially declared as Dibru-Saikhova Reserve forest (RF) in the year 1929 (final notification). It was designated as a wildlife sanctuary in 1995 and subsequently a biosphere reserve in 1997. Thereafter the area was declared a National Park in 1999. Within a span of five years the legal status of Dibru Saikhova underwent two major changes. Since each and every legal category within the Protected Area regime has a different approach towards community interface and thus such frequent changes in the legal status of the area provides immediate stimulus for the present study. The change in legal category of any critical habitat especially towards more protected and regulated legal categories is quite common in India. Despite being well intentioned these changes sometimes result in creating ambiguities and conflicts, as they directly affect the communities, which are heavily dependent on that area. Such conflicts often arise when the 'due process' as laid down under the regulatory framework is not followed. The case study of Dibru Saikhova is a pointer in that direction. While the State has resorted to frequent changes in the legal category of the area to protect the critical habitat, it is the fate of two forest villages being dwelling inside the Dibru Saikhova area for nearly fifty years, which is shrouded in uncertainty. With every change in the legal status of Dibru Saikhova the mandate regarding these forest villagers' access and use of the area has grown restricted, eventually resulting in a situation where their 'relocation' outside the area seems to be the only option to resolve the conflict. The uncertainty of each category within the last century of the same forest area has also raised some critical policy questions relating to PA-people interface. The present legal case study thus seeks to capture the impact of such frequent changes in the legal status of Dibru Saikhova, specifically on the forest villagers dwelling inside the PA.

The specific objectives of the present case study are summarized below:

1. To review the legal and policy framework to identify 'due process' that is required to be followed for changing the legal status of an area and whether the due process was followed in case of Dibru Saikhova area every time it underwent a change in its legal status;
2. To present how frequent changes in the legal status of Dibru Saikhova impacted the forest villagers of *Dadhia* and *Laika*.
3. To suggest parameters to be considered before changing or upgrading a legal category of protection as emerging from the case study of Dibru Saikhova.

It is clarified here that the scope of the present study is limited to legal and policy issues and it only addresses the socio economic or ecological concerns in so far as they are reflected in the regulatory framework.

METHODOLOGY

The methodology adopted for the case study was two fold.

Desk Review: A desk-based review of legal and policy instruments available on forests and PA Management including relevant laws, notifications, both nationally and at the PA level was carried out. The policy and legal documents have been collected from various sources including libraries, archives, law institutes, State Department of Forests. The secondary literature on the subject was also reviewed. The review helped in compiling the relevant legal and policy instruments and identifying and documenting the legal concerns.

Field based review: The field level interactions based on, interviews with stakeholders and key informant interviews were carried out, with the help of a Co-Investigator in Assam. The interviews were carried in person or on the basis of a questionnaire developed under the study. It helped flagging the concerns as on the ground including implementation of law.

Scheme of the Report: The Report has been written as per the format given by the WII for writing the forest case study. However under the main heads the author has made certain sub heads to facilitate better presentation of the issues.

I. DESCRIPTION

Dibru-Saikhowa is one of the biodiversity hot spots situated in the south bank of the river Brahmaputra in the extreme east of Assam State in India. This National Park lies partly in Dibrugarh district and partly in Tinsukia district and covers an area of about 340 sq.km. It lies between 27°30' N to 27°45' N latitude and 95°10' E to 95°45'E longitude at an average altitude of 118 m (range 110-126m) above the mean sea level.

Biogeographically the area exhibits the properties of both the Indian and malayan sub regions and represents the North Eastern India-Brahmaputra valley Bio-geographical province (9A). The forest type of Dibru-Saikhowa comprises of semi-evergreen forests, deciduous forests, littoral and swamp forests and patches of wet evergreen forests. The National Park is having about 35.84% moist mixed forests, 9.50% degraded forests and 21.25% grassland. Of the seven parts of the park one part is wetland and the rest is mainly grassland and dense forest. Situated in the flood plain of Brahmaputra, Dibru-Saikhowa is a safe haven for many various rare and endangered species of wild life. A total 36 species of mammals have so far been recorded from the Dibru-Saikhowa, of which 12 are listed in the schedule 1 of Wild Life (Protection) Act 1972. More than 250 varieties of local and migratory birds are also found in this Park. The Dibru-Saikhowa is rich and diverse in fauna. 2 species of Monitor Lizards, 8 species of Turtles and 8 species of Snakes have so far been recorded from the Dibru-Saikhowa. 62 different species of fishes and more than 350 species of birds have also been recorded from the Dibru-Saikhowa.

1.1 Conservation History of the Area

The first reference to the scientific management of forests of Dibru Reserve Forest appear in the working Plan compiled by *Purkayastha* which came into force in 1933-34. Subsequently the area acquired the status of a Protected Area (PA) and hence all silvi-cultural systems adopted earlier were stopped.

The Area has a unique conservation history as its legal status has been changing since the year 1890. As presented in table 1, from a Reserved Forest in 1890, it was later declared a Wildlife Sanctuary in 1996, then a Bio Sphere Reserve in 1997 and eventually a National Park in 1999.

Table 1: Changing Legal Categories of Dibru-Saikhowa Area

S.No	Date	Event
1.	1890	Declaration of Dibru RF area
2.	1929	Declaration of Saikhowa RF (Final Notification) area
3.	1986	Declaration of Dibru Saikhowa wildlife sanctuary by the inclusion of Dibru & Saikhowa RF and other adjacent areas. Total area: 640 sq km. (Preliminary notification)

4.	1995	Declaration of Dibru Saikhowa wildlife sanctuary (Final Notification) Area: 340 sq km
5.	1997	Declaration of Dibru Saikhowa Bio sphere reserve. Area 765 sq km
6.	1999	Declaration of the entire 340 sq km area of the wildlife sanctuary as Dibru Saikhowa National park

There are two forest villages, namely *Dadhia* and *Laika*, which were set up inside the Dibru Reserve Forest during 1956-57 and 1951-52 respectively as per the provisions of *Assam Forest Regulation*. The *Dadhia* village falls under the Dibrugarh district, the *Laika* village comes within the Tinsukhia district. Initially the Area allotted to *Dadhia* Forest village was 135 hectare with a sanctioned strength of 90 households, while *Laika* was allotted 238 hectare and 75 sanctioned households at that time. However over the years the area under the forest villages, size and number of households has increased to a great extent. By the year 2001 the population of forest villagers had crossed 5000. As a result it is not clear how many of them are encroachers and who all are the erstwhile forest villagers. Please see Table No. 2 for demographic details of the two forest villages. Majority of these villagers belong to the 'Missing Tribe'¹. Apart from the two forest villages inside the PA, there are around 39 villages located in the fringe of Dibru-Saikhowa under the Tinsukhia Wildlife Division. A list of these villages has been annexed as an annexure to the Report. (Please see Annexure No.1)

Table-2: Settlements in Dibru Saikhowa National Park at a Glance²

S.No	Name	Laika FV	Dadhia FV
1.	Year of Creation	1951-52	1956-57
2.	Original Area	238 Ha	135 Ha
3.	Sanctioned Households	75	90
4.	Households (2001)	286	235
5.	Households (2004)	771	656
6.	Population (2001 Census)	2162	2218
7.	Household size	8.0	7.0
8.	Livestock	3887	6000
9.	Schools	4	5
10.	Medical Centre	1 established in 1964. Now not functional	Nil

¹ As per personal interactions with the Forest Department officials.

² Source: A Brief Impact Assessment Note on the Existence of Enclaved Settlement in Dibru Saikhowa National Park (Based on the Management Plan Prescriptions); gathered from the District Wildlife Division



11.	Nearest Market	Guijan (15 Km)	Dinjan (7Km)
12.	District	Tinsukhia	Dibrugarh

1.2 The PA-People Interface

As emerging from the description above, the Dibru Saikhova division is located in a unique context vis-à-vis PA-people interface. While on one hand restrictions on human interface within the area kept increasing with change in its legal status, the actual pressure on the P.A. was rising with increase in the population of forest villagers and other factors. The Protected Area is now faced with numerous issues and conflicts, which are posing a great threat to the wildlife as well as the natural habitat. These threats to the PA can be classified in three classes, firstly the ones arising out of a natural phenomenon, such as annual floods. The Dibru Saikhova NP is located in a flood plain and thus it witnesses major floods every year. Secondly there are organized human activities such as large scale timber felling, smuggling, poaching³ etc. The presence of naxalites has also been reported from the PA on various occasions⁴. Lastly there are issues arising out of the presence of the two forest villages inside the PA namely *Dadbia* and *Laika*. As per the Forest Department of the State the existence of these villages inside the PA poses a great threat to the wildlife and the natural habitat of the Park⁵. Infact certain studies conducted in the past⁶ see the two forest villages located inside the National Park as the main hazard to the PA. The impact of FVs on the PA as indicated in such reports is summarized below in the box-1⁷. Hence the relocation of the villages has now become the first priority of the State. The idea of relocating the forest villagers was first conceived when the area was constituted a sanctuary in 1996, however it has been pending since almost ten years from now. The State has still not been able to identify a suitable place to relocate the forest villagers.

Box No. 1

Threats to the Park: *Impact of the Forest Villages?*

- The increase in population of the forest villages has resulted in *encroachments* on the adjoining land of the forest, thus causing damage to the habitat. As per the Park records there are encroachments on the eastern and the western corner of the Park. The movement of the forest villagers also causes disturbance to the wild animals.
- The forest villagers construct their traditional 'Chang Ghar' with timber, they fell trees for extracting timber and collect other NTFPs from the Park for constructions of their traditional huts. Notably the felling of trees is prohibited in

³ See The Assam Tribune dated September 2, 2003 (More than 400 logs recovered from national park's vicinity), and Protected Area Update Issue 45, October 2003 (Large scale timber trafficking in Tinsukia; source of timber suspected to be Dibru-Saikhowa NP)

⁴ See The Hindu dated Sep 21, 2005; ULFA militants holed up in National Park;

⁵ As per personal interaction with officials.

⁶ A Brief Impact Assessment Note on the Existence of Enclaved Settlement in Dibru Saikhova National Park (Based on the Management Plan Prescriptions); gathered from the District Wildlife Division.

⁷ The list is only illustrative of the impacts of forest villages on the PA and is not exhaustive.



the Park, however ‘removal’ of forest produce is not completely prohibited in a National Park as per the WLPA. It may be permitted for meeting the *bona fide* domestic needs of the local communities living in and around the National Park, under certain conditions. However as a result of an Apex Court order, collection of dead, dry and fallen wood from a PA is prohibited as of now.

- *Illegal fishing* from the water bodies is yet another issue. There have also been cases of poisoning of water bodies by the villager people. It is to be noted that poisoning of water bodies is an offence both under the forest and wildlife laws in India.
- *Extensive grazing* by the cattle of the fringe and the FVs is another major problem. The estimated cattle population held by the villagers of Laika and Dadhia is about 4000 and 6000 respectively. The villages in the fringes also have the similar number of cattle. Apart from causing harm to the habitat by grazing, there are also possibilities of transmitting communicable diseases from the cattle to the wild animals.
- There is also apprehension of poaching in the National Park during the past years. As per the Park records there are also indications of possession of firearms by the forest villagers. The matter was reported to the Police for withdrawal of these firearms from the villagers.

Interestingly the forest villagers are also demanding for their relocation elsewhere outside the PA, as the condition of these enclave villages is very poor. The villages are located in very interior places and there is no proper infrastructure available. There is no road access, no medical facilities, no electricity, or proper schools for the village people⁸. These villages are located in highly flood prone zones and the PA is flooded at least two to three months in a year, especially during the period June to October. These floods result in major losses for the forest villages as their hutments, properties, live stock etc get eroded. Further during the floods the accessibility to the PA gets affected and sometimes the situation is so bad that the only mode of transportation that remains is boats.

The economic status of the village people is very poor, as they have limited opportunities for income generation. They are essentially dependent on forests, agriculture or fishing for their sustenance. The recent developments namely constitution of the National Park has brought in a stringent regulatory regime, thus limiting the economic activities that the village people can engage in. Further the restrictions on removal of forest produce; grazing, movement of livestock etc have also increased. The State FD has not initiated Eco development in the area as yet. Thus the villagers living in such miserable conditions also desire to be relocated outside, however there is still no certainly as to when, how and where they would be resettled.

While the adverse impact of the FVs on the PA has been talked about time and again, there is little or no discussion on the impact of PA on these forest villagers. These villagers have existed inside the PA for almost fifty years from now. However from erstwhile forest

⁸ See ‘Villages Demand Proper Arrangements for Relocation from Dibru-Saikhowa NP; (PA Update 2006, Vol 59)

villagers, they are now being reduced to the status of ‘illegal occupants’ or ‘encroachers’. The situation as existing today may be seen as the result of frequent changes in the legal status of Dibru Saikhova especially bringing the area under more stringent regulatory regime from time to time; without assessing the impact of such changes on the people living in and around the area and taking measures to prevent adverse impacts on the village population. Further there is no mechanism for consultation with the community affected before the legal status of a conservation category changes under the present regulatory framework. Though the idea of change in the legal categories may be well intentioned, it needs to be borne into mind that frequent changes in legal categories creates a different impact on those people who live in or around it. Such impacts can be seen on access to forest or PAs, rights or privileges of the communities on resources of the forests, management of the areas and so on. The reasons for these varied impacts are manifold and one of the central reasons is that each category brings with it a different legal consequence. Thus while RF areas are within the domain of the *Indian Forest Act, 1927*, in case of Assam the *Assam Forest Regulation, 1891*; its conversion into a sanctuary or a national park attracts the provisions of the WLPA. At the same time administrative classification of such areas as biosphere reserves entails a different implication from the management perspective. There are critical questions with respect to the rights and practices of the village community involved here as every conservation category has its own approach towards recognition and settlement of their rights. While certain rights and practices may be allowed in a RF or a sanctuary, those practices cannot be allowed in a NP, such as collection of fuel wood, NTFP collection and grazing of livestock. Moreover even the communities are not that quick to adapt to changing legal categories.

Another aspect of the present issue is the need to follow a ‘due process’ as laid down in the law before an area is brought under a different legal category. The ‘due process’ here refers to the process for determination and settlement of rights of the communities living in and around the area. Inadequate compliance or non-compliance with the due process may result in ambiguities regarding the rights of the people or the practices that may be permissible in the area, thus affecting both the local community and the natural habitat. Interestingly the due procedure regarding the inquiry into the rights of people was not followed when Dibru Saikhova was constituted a National Park. As a result there are still populations living inside the PA, which have now seen as a threat to the PA.

It is in this background that the case study on *Dibru Saikhova* National Park seeks to critically review the process of change in legal status of the area, to find out how each change in the legal status impacted the communities, especially the inhabitants of Dadhia and Laika villages, from a legal perspective. It is important to look at the PA-people interface in Dibru Saikhova from this unique perspective so as to understand how change in legal categories, especially towards more stringent legal classes, as a PA management strategy may work on the ground. The Case study would also highlight the factors that should be borne into mind while changing the legal status of the area. It is pertinent to note that such a review of the present conflict in Dibru Saikhova has not been done before.



II. POLICY RECOMMENDATIONS

In order to understand how the legal regime applicable to Dibru Saikhova has changed with the change in its legal status, it is important to review the law relating to both forests and wildlife. It is important to note that in a designated PA the law relating to forests, i.e. *Indian Forest Act, 1927* (*Assam Forest Regulation, 1891* in the present case⁹) is not applicable. The area shall be governed by the *Wild Life Protection Act, 1972* or the Rules that State¹⁰ concerned may enact. Thus in the present case, i.e., *Dibru Saikhova Assam Forest Regulation*, AFR was applicable till it was a Reserved Forest. It is under the AFR, that the two forest villages were established in the area. In 1986, when it was notified as a proposed Sanctuary, the area came under the purview of WLPA, since then it is the WLPA that is the law governing the management of the Area.

In this section of the report the laws relating to forests and wildlife will be reviewed to understand the legal connotation of various forests as well as PA categories and the framework for community rights and privileges in those legal categories of forests and PAs etc. The mandate for forest villages as under the AFR, the rights and privileges enjoyed by the forest villagers and their position now will also be reviewed. The idea is to understand the status of the forest villagers in such category and the rights and practices that were permitted in those categories. The ‘due process’ to be followed before constituting a particular legal category would be reviewed to see whether the same was adhered to or not in case of Dibru Saikhova.

2.1 The Genesis-Constitution of RF and Establishment of Forest Villages

As mentioned earlier the Dibru Saikhova area was first created as a ‘Reserved Forest’ (RF) under the *Assam Forest Regulation, 1891*. AFR is an example of old forestry laws in India, which is applicable in the entire state of Assam except the scheduled areas of the North Cachar Hills District and the Karbi Anglong District¹¹.

⁹ Notably the subject ‘forests’ forms part of the Concurrent list and thus both states and the Centre can legislate on the subject. Here the Indian Forest Act, 1927 provides an umbrella framework, which can be adapted in the respective states in two different ways. It may directly be applicable with modifications as per the States’ requirements or alternatively a State may have its own forest Act in accordance with the umbrella legislation. The AFR in Assam is an example of the latter.

¹⁰ Wildlife is under the Concurrent list under schedule IV to the Constitution of India. Thus both the State and the Center may frame law on the subject. While the WLPA is a national legislation, the states are empowered to frame specific Rules on Wildlife.

¹¹ The term Scheduled areas here refer to the special areas of administration listed under the VIth to the constitution of India. These were predominantly tribal inhabited areas located in the Northeastern States of the Country.

The Reserve forest is one of the most important categories of forests under the AFR¹². As per the AFR any land ‘at the disposal of the State’ may be constituted as a reserve forest. (Sec 4) The lands that are at the disposal of the government, have been defined to include only such land in respect of which no person has acquired “a permanent heritable and transferable right of use/occupancy under any law for the time being in force;” or, those lands which are vested with the central government on behalf of the state government. Though the law does not prescribe any criterion for constituting a particular area of land as a reserve forest, the reserve forests are considered the most restrictive category of forests as most uses by the local community are prohibited except specifically allowed by a forest officer in the course of "settlement". It is the settlement process that determines the extent and nature of rights and privileges of the local community over the forests and its resources. Thus it is important to examine the process of ‘settlement’ of forests in detail as carried out under the AFR.¹³

2.1.1 Settlement of Rights in Reserve Forests: *The procedure*

The AFR provides for an elaborate procedure for settlement of rights and other claims over the area proposed to be constituted as a Reserve Forest. It is this process of inquiry into and settlement of rights that comprises the ‘due process’ for RFs and it needs to be followed before an area can be declared as RF.

*Intention notification*¹⁴:

The process of forest settlement starts with the publication of an intention notification by the State government, specifying the situation and limits of the area proposed to be declared a reserve forest. The process of forest settlement is carried out by the forest settlement officer (FSO) appointed by the State government under the AFR to inquire into and determine the existence, nature and extent of the rights alleged to exist in the RFs.

*Proclamation by FSO*¹⁵

The intention notification is followed by a proclamation published by the FSO in vernacular language at the head quarters of all concerned districts and sub divisions in which any portion of the land comprised in the notification is situated. Under the Proclamation persons claiming any right over the concerned area are required to present such rights or claims before the FSO within a specified period. (not less than three months)¹⁶ One of the most striking features of the settlement process under the AFR is that after a proclamation notification there is a bar on the accrual of new rights¹⁷. The entire responsibility of inquiry and for the orders passed rest with Forest Settlement

¹² The other categories of forests are village forests, unsettled forests, and other forests and waste lands that are not the property of the government. However these categories are not relevant for the present study and hence they are not being discussed in the Report.

¹³ Detailed instructions for forest settlement officers in Assam found in the Provincial Govt. circular No.14-R dated the 20th March, 1897.

¹⁴ Sec 5 of AFR

¹⁵ See sec 6 AFR

¹⁶ Section 6.

¹⁷ See section 7 of AFR.



Officer (FSO) He is not only required to inquire into the claims made before him but also into the existence of rights and practices in respect of which no claim is made. He is also required to consider and record the objections made by the forest officer (FO) appointed to assist him.

Nature of Rights/ Claims Settlement during the Settlement Process:

The AFR provides for various kinds of claims that are settled during the settlement process, such as the claims regarding *jhum* cultivation¹⁸, rights of way, rights to water course or to use of water, right of pasture or to forest produce, or other rights in or over the land.

As regards *jhum* cultivation, the FSO is specifically mandated to inquire into any claims relating to the practice of *jhum* cultivation, thus signifying the uniqueness and dominance of such a practice in the Northeast. In fact, the instructions¹⁹ to FSO clearly provide that one is bound by law to take down in writing any settlement of claim in respect to *jhum* cultivation. The AFR provides that the claims relating to the practice of *jhum* cultivation may be allowed or regulated by the FSO. It is important to note, however, that the practice of *jhum* cultivation “in all cases be deemed to be a privilege subject to control, restriction and abolition by the state government and not to be a right.”²⁰

With respect to the other three classes of claims namely; the right of way, the right to a watercourse or to use of water and, the right to pasture or to forest produce, the FSO may admit or reject the claim. In cases where rights are admitted, a detailed description of how these rights may be exercised has been provided under the AFR especially relating to the rights of pasture and the forest produce. In all other cases where the FSO does not prescribe the exercise of the rights as per the AFR, the rights are commuted by paying a sum of money in lieu of the rights.

Appeal against the order of the FSO:

If any person who had made a claim with respect to the rights mentioned above is not satisfied with the order of the FSO on his claim, he may within three months from the date of the order on such claim present an appeal to an officer of the State Government, not below the rank of a Deputy Commissioner.

Final Notification declaring RF:

Lastly after the period fixed for presentation of claims has expired and all claims made have been disposed off or if claims have been made then the stipulated time for appealing against the orders made on those claims has elapsed or those appeals have been disposed of as provided under the AFR, or if the lands to be included in the RFs and required to be acquired under the *Land Acquisition Act* have been acquired, the State government may issue the final notification declaring the RFs, specifying its limits. From that date such

¹⁸ It is a form of sifting cultivation that is practiced in the North Eastern India.

¹⁹ Detailed instructions for forest settlement officers in Assam found in the Provincial Govt. circular No.14-R dated the 20th March, 1897.

²⁰ See Section 10 (4) of the AFR of 1891.



forest shall deemed to be a reserve forest. The outcome of the settlement process is the 'Settlement Report', which contains the details regarding the forest, its boundaries, the rights, privileges of the local communities settled during the settlement process.

Since the final notification for declaration of Dibru as a RF was issued in 1929 before it was constituted a wildlife sanctuary, it can be presumed that the rights of the community as existing in the forest division had been settled before the forest division acquired the status of a Protected Area (PA). In a designated RF most of the uses by the people such as access to the forests, exploitation or removal of forest produce, agriculture, grazing etc are prohibited except specifically allowed, for example by way off settlement of rights as explained earlier. Though residence into a RF is not generally not permitted, however there is a unique concept of forest villages, wherein habitations were created inside the RFs. The concept of forest villages was quite prevalent in India. The presence of Dadhia and Laika villages inside the Dibru Saikhova forest Division is an example of such phenomenon. Thus at this juncture it becomes important to understand the concept of forest villages.

2.1.2 Mandate for setting up Forest villages inside RF: The Origin of Dadhia and Laika

The concept of forest villages is a unique feature of Indian Forestry. Earlier forest villages were set up in remote and inaccessible forest areas with a view to provide uninterrupted manpower for forestry operations²¹. These villages were under the control of the forest department and no revenue benefits accrued to such villages as technically they were not under the Revenue Department. In Assam specific Rules were enacted for the establishment and control of forest villages under the AFR²². The two forest villages *Dadhia* and *Laika* were established in the Dibru RF as per these Rules.

Under Forest Villages Rules, the forest villages are mandated to be established within the limits of reserve forests. They are designed for the purposes of providing a source of suitable local labor and for forming and maintaining plantations. During the personal interaction with one of the forest officials, it was found that in Dibru forest reserve no plantations were carried out, and thus it is not clear why these forest villages were created at the first instance.

The Conservator of Forests and District Forest Officer (DFO) are the executive authorities to whom the entrants in forest villages are accountable to. The DFO, in fact, has been empowered to evict summarily anyone from a forest village, without payment of compensation, who does not comply with rules or orders as per the rules.

In such forest villages, the adult forest villager is required to render 20 days of labor and in lieu of which the forest villager is given an annual *patta* (lease). However such an annual lease was required to be reviewed every year. An allotment of 5 bighas of land including homestead or *bari* is made to each resident household. To this another ten bighas is added

²¹ Letter by MoEF to all States' FD's dated 18.9.90, No. 13-1/90-FP (5) regarding conversion of Forest Villages into Revenue Villages and settlement of old habitations.

²² These Rules were framed under Notification No. 4631-R dated December 1930.

for each working member in the household. However such allotment of land to a forest villager is not heritable. On the decease of a householder, the name of his male heir is registered as a forest villager only if he is considered by the DFO. Further the sub letting of the land is not permissible. Thus the forest villagers do not acquire any transferable or heritable rights to the land. In addition to the cultivating land at coessional rates of revenue for which the above mentioned '*pattas*' are issued, each householder in a forest village will be allowed free grazing for all necessary plough and cattle. As regard the removal of forest produce, the Rules prescribe that the adult male forest villagers shall pay for all forest produce taken by them.

Thus the forest villagers of Dadhia and Laika do not have any heritable rights to the forest produce or to the land they occupied. The *patta* they were allotted was also required to be renewed every year. These annual leases have not been renewed for more than 20-25 years²³. It is this lack of rights with the forest villagers under the erstwhile forest practices because of which it has become easier for the present day government to overlook their needs and voices.

Another issue with these forest villages is that they have their own unique system of administration, wherein their interface is confined to the forest department only and they are often deprived of the fruits of developmental activities. It is only on the request of fifty percent of the forest villagers that the forest department admits persons whose services are required such a school-teacher, a barber, shopkeepers etc.

The forest villages across the country are now faced with numerous uncertainties primarily because these forest villages have lost their significance on account of improved accessibility, expansion of human habitations etc. The concept of forest villages has to be re looked in the modern context and it has been held by National Reports and studies that such villages are unconstitutional and thus need to be converted into revenue villages. The Union Ministry of Environment and Forests (MoEF) has also deliberated on the issue and came up with certain Guidelines on conversion of forest villages into revenue villages. The *National Forest Policy of 1988* endorsed the development of such forest villages spread across the country, on par with revenue villages. This issue was again examined by an Inter-Ministerial Committee, set up by the MoEF, to look into various aspects of tribal-forest interface, in consultation with the representation of some of the States. Subsequently in 1990 the MoEF issued a comprehensive notification suggesting measures to resolve the outstanding issues of forest villages²⁴. The notification categorically stated that the forest villages may be converted to revenue villages after denotifying requisite land as forest. The States were required to submit proposals for seeking approval of the government of India for this purpose under the *Forest Conservation Act, 1980*. The Notification also advocated conferring of heritable yet inalienable rights over the land while such conversion of FV into a RV. However as far as the present case is concerned, the matter conversion of these

²³ As per personal interactions.

²⁴ Letter by MoEF to all States' FD's dated 18.9.90, No. 13-1/90-FP (5) regarding conversion of FVs into RVs and settlement of old habitations.



two villages has become more complicated as the RF subsequently acquired the status of a PA. In 2004²⁵, the MoEF issued another notification on the subject wherein it categorically mentioned that in cases where the forest village is situated in a National Park or a Sanctuary, the approval of the Standing Committee of the National Board of Wildlife and the Supreme Court of India. Furthermore in the present case the State is not considering the conversion of the forest village into the revenue village, as the area is a critical biodiversity hot spot in the state. The state's priority is relocation of the forest villages elsewhere outside the Park. While there are national guidelines on 'conversion' of FVs into RVs, there are no guiding principles on 'relocation' or 'resettlement' of forest villages outside forest areas. Such relocation is completely with the discretion of the State Government. Further there is no consensus in what circumstances 'resettlement and rehabilitation' should be undertaken and under what circumstances 'conversion of FVs' should be done.

2.2 Constitution of Dibru Saikhova Sanctuary- The beginning of uncertainty in the status of FVs

The establishment of a sanctuary over the Dibru Saikhova area was a critical step in the conservation history of the area as after constitution into a sanctuary in 1996, Dibru Saikhova acquired the Status of a PA and came under the ambit of WLPA. The establishment of a sanctuary brought about changes in the management of the area by bringing it under a stricter regulatory regime as compared to a RF, which resulted in impacting the FVs inside the area in a huge way. Before getting into the impact of constitution Dibru Saikhova WL sanctuary on Dadhia and Laika FVs, it is first important to understand the legal connotation of the term sanctuary and the 'due process' to be followed for establishing sanctuaries in India.

2.2.1 The Due Process for Constitution of a WL Sanctuary

It is important to understand here that the provisions regarding constitution and management of PAs under WLPA have undergone several amendments, the most recent being the amendment of 2002²⁶. Thus in this section the law as existing at the time of constitution of Dibru Saikhova sanctuary will be discussed and not the amended Act.

Under the WLPA there are three mechanisms, which denote the manner by which a sanctuary can be understood²⁷. The foremost and the widely understood mechanism for constituting sanctuaries, that was also used in the present case comes quite close to the

²⁵ Letter dated 5.2.2004 issued by MOEF, GOI, to all States & UTs (Chief Secretaries, Principal Secretaries & PCCFs) regarding regularization of the rights of the tribals on the forests lands

²⁶ Act 16 of 2003

²⁷ The second way of denoting a sanctuary is through the Central Government (Section 38.1, WLPA). The third way of constituting a sanctuary is the recognition of those sanctuaries, which have been declared prior to the commencement of WLPA. (Section 66. 3 WLPA)

manner in which reserve forest are constituted, involving inquiry into and settlement of rights.

Under this mechanism an area (of land or water, of any legal status except Reserved Forests and territorial waters around India's coast) may be notified a sanctuary²⁸. In such cases a detailed procedure needs to be followed as regards settlement of rights in the area. Firstly an intention notification is issued by the State government declaring its intention to constitute the given area as a Sanctuary and specifying the limits of the area in question²⁹. Thereafter the Collector is responsible to determine the existence of, nature and extent of the rights of the people in or over the land comprised within the limits of the sanctuary³⁰. The Collector is required to publish a proclamation in the regional language in every town and village in or in the neighborhood of the area concerned. The Proclamation should specify, as nearly as possible, the situation and the limits of the sanctuary; and require any person, claiming any right, to prefer before the collector, a written claim in the prescribed form specifying the nature and extent of such right. Such submission of claims has to be made within two months from the date of such proclamation³¹.

The Collector shall then inquire into the claims preferred before him as well as the existence of any other right not claimed before himself, but are ascertainable from the records of the State Government³². Here also the Collector is empowered to admit or reject any claim or right partially or completely. If such claim is admitted in whole or in part, the Collector may either (a) exclude such land from the limits of the proposed sanctuary, or (b) proceed to acquire such land or rights. One of the significant features of the Sanctuary is that the Collector may allow, in consultation with the Chief Wildlife Warden, the continuance of any right of any person in, or over any land within the limits of the sanctuary. Thus continuance of a right is permissible in a Sanctuary.

Finally when after the issuance of the preliminary intention notification the period for preferring claim has elapsed, and all the claims, that were made in relation to any land in an area intended to be declared as a sanctuary, have been disposed of by the State Government, State Government is required to issue a notification specifying the limits of the area that would finally be notified as a sanctuary. The sanctuary exists from the date of such notification³³. Notably in case of Reserved Forests (RFs) and territorial waters, the final notification can be issued directly. Which means that in such cases issuance of an intention notification and then inquiry into claims and rights can be disposed off³⁴. However in the present case the Dibru Saikhova RF was not declared a sanctuary directly as mentioned above since the area under the proposed sanctuary included certain adjacent non-RF areas too. The Preliminary notification expressing the State's intention to declare

²⁸ Under *Section 26-A* of WLPA.

²⁹ *Section 18.1*, WLPA

³⁰ *Section 19*, WLPA

³¹ *Sec 21*, *ibid.*

³² *Sec 22*, *ibid.*

³³ *Sec 26-A*, WLPA

³⁴ As under *section 26-A (b)* of WLPA.



the area as a Sanctuary was issued on 26th September 1986³⁵. At that time the total area that was intended to be declared a sanctuary was 650 sq K.M, eventually only 340 sq km of area was declared as a sanctuary in the final notification. The intention notification recorded the existence of two forest villages, *Laika and Dadia* inhabited inside the sanctuary and provided that they were permitted to enjoy their privileges till they are shifted outside the sanctuary. As per the notification the Deputy Commissioner, Dibrugarh District was, appointed as a Collector to determine the existence, nature and extent of the rights alleged to be existing in the area to be declared as the sanctuary. Later in 1995 the final notification declaring the Sanctuary was issued,³⁶

2.2.2 The Establishment of Dibru Saikhowa Sanctuary vis-à-vis Laika and Dadia FVs

Both the preliminary notification and the final notification constituting Dibru Saikhowa Sanctuary provided that the forest villages inside the sanctuary may be allowed to reside there and also to enjoy the privileges till they are shifted outside the Sanctuary. However even after the lapse of more than ten years the forest villages are still there, perhaps occupying a much larger space than what they were initially offered. Further the nature and extent of privileges that were being enjoyed by the forest villagers was still ambiguous, at least from the final notification for the sanctuary.

Impact of Constitution of Dibru Saikhowa WL Sanctuary:

As mentioned previously the constitution of WL sanctuary brought about various changes in the management of the area. As per the WLPA the Chief Wildlife Warden is the authority who controls, manages and maintains all sanctuaries. For that purpose, within the limits of any sanctuary (s) he may take steps to ensure the security of wild animals in the sanctuary and the preservation of the sanctuary and wild animals as well as for the improvement of the habitat. (Sec 33)

There are restrictions on entry or residence into a Sanctuary. For that purpose an application is made to the Chief Wildlife Warden, who may after considering that application, grant the requisite permit to applicant. As per the WLPA such permit for entry or residence may be granted for certain specific purposes only, such as investigation or study of wildlife, photography, scientific research, tourism, transaction of etc. However in the present case of Dadhia or Laika villages inside the sanctuary such permit for residence was not required as the final notification for the Sanctuary itself provided that the forest villagers may be permitted to reside inside the Sanctuary till they are relocated.

One of the most significant provision of WLPA having a great bearing on the village people are the provisions relating to restriction on removal, or exploitation of forest produce from the Sanctuary as the forest dwelling communities are heavily dependent on forests and natural resources for their sustenance. Till 2002 the WLPA did not have specific provisions

³⁵ Notification dated 26-09-86, No. FRW 51/86/8 under section 18 (1) of WLPA.

³⁶ Notification dated 2nd March, 1995 No. FRW/21/90/122.

on removal or use of forest produce from the sanctuary. Though there were restrictions regarding exploitation and removal of wildlife from the sanctuary, which was permitted only on a permit granted by the Chief Wildlife Warden, on certain conditions. However there was nothing in the Act that provided for the removal or access to forest produce. Though the final notification declaring the sanctuary mentioned that the forest villagers would be permitted to exercise their privileges, it was however not clear whether such privileges would include removal of forest produce for their bonafide domestic purposes. Even if it is assumed that such privileges were permitted, it is submitted that such an interpretation would not be backed by the law. This is a clear example of how a mechanical change in the legal status of an area may create contradictions if there is no clarity with respect to people's rights or privileges on the ground. It was only in 2002 when the WLPA was amended and provisions regarding removal of forest produce, especially for the bonafide domestic purposes of the communities in and around the PAs was introduced. At present there is a prohibition on removal, exploitation and destruction of wildlife from the sanctuary except on a permit to be issued by the Chief Wildlife Warden and the same may be granted only if he is satisfied that the such exploitation or removal of wildlife from the sanctuary is necessary for the improvement and better management of wildlife. The Act also mentions that in cases where forest produce is removed, it may be used for meeting the *bonafide* needs of the people living in and around the sanctuary, but not for any commercial purpose. It is pertinent to note here that even before this amendment regarding removal of forest produce came, the Apex Court had already issued a prohibition on removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses etc. from any National Park or Game Sanctuary³⁷.

Another relevant provision that relates to grazing is that under WLPA grazing or movement of livestock may be regulated, controlled or even prohibited by the Chief Wildlife Warden. Thus grazing became an issue both for the FD and the villagers as the villagers had livestock. The movement of livestock within the sanctuary also became a concern for the FD as it seen as hampering the natural passage of wild animals

Thus after constitution into a sanctuary the status of the forest villagers changed and the uncertainty regarding their relocation elsewhere started taking roots. Though it was not clear where or how would they be relocated and those questions are still not answered. Even the notification said that they could exercise their privileges but it was not clear what is the nature and extent of these privileges. In a sanctuary where most of the uses and practices such as removal of forest produces, grazing, residence and movement is regulated, it was ambiguous how these villagers would meet their *bona fide* domestic requirements.

2.3 Creation of a Bio Sphere Reserve-Administrative category & implications

While the relocation of the forest villagers was pending, and they were yet to adjust with the new mechanism for management and control of the sanctuary, the State sent a

³⁷ Order dated 14.02.200 in T.N Godavarman vs UoI (W P (C) 202/1995)

proposal to the MoEF to constitute *Dibru-Saikhowa* as a Biosphere reserve. In 1997 the Sanctuary and certain adjacent areas of *Dibru-Saikhowa* were declared a Biosphere reserve³⁸. The total area of the BR is 765 sq Km. Notably Biosphere Reserves are administrative categories and are not backed by any legal instrument in India. Further they do not affect the existing legal status of the area they comprise of. It was clearly mentioned in the MoEF's letter establishing Dibru Saikhowa BR that the constitution of BR *per se* would not change the status of legal ownership of land and forests nor affect the rights of the tribals and local populations.

Before delving into the implication of constitution of Biosphere reserve on *Dibru-Saikhowa* it is important to understand the concept of biosphere reserves.

What are Bio sphere Reserves

The idea of biosphere reserve was initiated by UNESCO in 1974 under the *Man and Biosphere Programme (MAB)*. The objective of the programme was to obtain international cooperation for the conservation of the biospheres. Biosphere Reserves are understood as the areas of terrestrial and coastal ecosystems which are internationally recognized within the framework of UNESCO's Man and Biosphere (MAB) Programme.

The biosphere reserve should fulfill the following three objectives:

- In-situ conservation of biodiversity of natural and semi-natural ecosystems and landscapes;
- Contribution to sustainable economic development of the human population living within and around the Biosphere Reserve;
- Provide facilities for long term ecological studies, environmental education, training, research and monitoring.

In order to fulfill the above objectives, the Biosphere Reserves are classified into zones like the core area, buffer area. The system of functions is prescribed for each zone.

Zonation of the Biosphere Reserves

One or more core zones: These are most ecologically sensitive and pristine area where nature conservation is a priority and low-impact activities (e.g. hiking and bird watching) are allowed. These are securely protected sites for conserving biological diversity, monitoring minimally distributed ecosystems and undertaking non-destructive research and other low-impact uses (such as eco-tourism and education). The entire area of Dibru Saikhowa sanctuary spread over the area of 340 sq km comprises the core zone of the Biosphere reserve.

Buffer Zone: It is less ecologically sensitive but mostly natural area where recreation (e.g. camping, boating, mountain biking), and sustainable utilization of natural products (e.g. fishing, wildflower harvesting) can be accommodated. The buffer zone usually surrounds

³⁸ Letter issued by the Joint Secretary MoEF, to the Chief Secretary, Assam Government establishing Dibru Saikhowa Bio sphere Reserve, dated 28 July 1997.

or adjoins the core zones and is used for cooperative activities compatible with sound ecological practices, including environmental education, recreation and applied and basic research. In case of Dibru Saikhova WL sanctuary the area of 425 sq km around the sanctuary comprises the buffer zone of the BR.

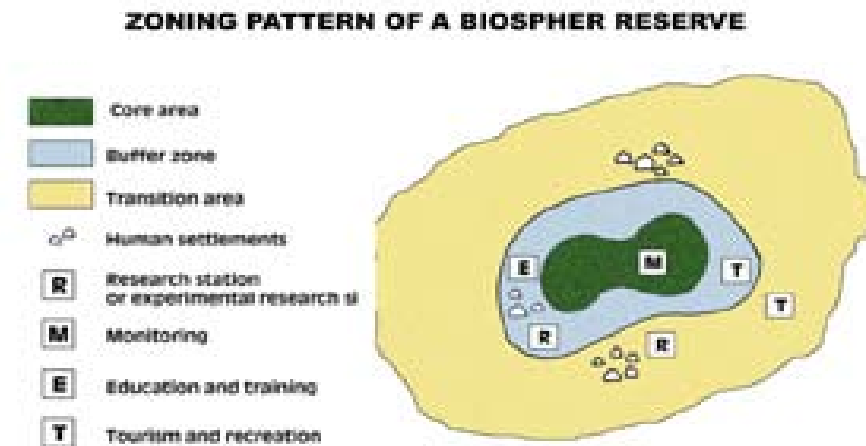


Figure1: Zoning Pattern of a Bio Sphere Reserve

There is also a *flexible transition area* or area of cooperation. This area may contain a variety of agricultural activities, settlements and other uses and in which local communities, management agencies, scientists, non-governmental organizations, cultural groups, economic interests and other stakeholders work together to manage and sustainably develop the area's resources. However, in India primarily two zones have been recognized in almost all BR's that is core and buffer.

The BR reserves are required to meet a minimal set of criteria and adhere to a minimal set of conditions before being admitted to the World Network of Biosphere Reserves designated by UNESCO. Though Dibru Saikova has not yet been listed on UNESCO World Network of Biosphere Reserves, it one of the designated BR sites in the Country. The constitution of BR also brought about certain new institutional structures, such as *Bio Sphere Reserve Management Council* at the State level and a local level committee. The BR Management Committee is chaired by the Chief Secretary, Government of Assam, while its members include Joint Secretary MoEF, CCF, Government of Assam, representatives of Botanical Survey of India (BSI) and Zoological Survey of India (ZSI) amongst others. As mentioned earlier the procedure for constituting or managing BR are only administrative guidelines having no legal mandate. Thus ultimately it is the WLPA that would determine how the core area, that is the sanctuary, can be managed. Thus any mechanism for managing the BR has to be consonance with the provisions of the law and it cannot go beyond the legal mandate. On the other hand there is a local committee, which is required

to coordinate the activities of various departments in the BR area. The Local committee in Dibru Saikhova consists of NGOs, Panchayat functionaries apart from the DFO amongst others. As per the Forest Department officials this committee meets regularly and deliberates upon the management of the area³⁹. Another important feature of management of BR is provision of financial assistance from the Central government to the State governments for conservation and management of biosphere reserves.

2.3.1 Constitution of BR and its Implications for Dibru Saikhova:

The establishment of BR in Dibru Saikhova brought about certain changes in the management of the area. The first and the foremost impact is on the management wherein the classification of the area as core and the buffer zones is envisaged. One of the basic principles of management of any BR is to keep the core zone absolutely undisturbed, especially from human interference. However in the present case, the core zone, i.e., Dibru Saikhova Sanctuary, comprises *Dadhia* and *Laika* forest villages, thus in the core area the human interface is maximum. Therefore the presence of these villages became an obstacle to the effective core zone management, till these villagers are relocated. Another significant point about the Dibru Saikhova BR is that the Dadhia and Laika FVs which are located within the area of the BR are not included in the list of beneficiary villages for the BR, it is the other revenue villages located in the fringes of Dibru Saikhova that comprise the beneficiary villages for the BR (See Annexure 1 for list of these villages). Though there are deliberations to include them also in the beneficiary list but as of now they are being deprived of the benefits that are accruing to the other villages⁴⁰.

Further BRs are primarily multiple use categories, where there is focus on development of dependent human populations, education, research, tourism apart from conservation, while the WL Sanctuaries are protected areas where human interface is restricted with the idea to preserve and protect the wildlife and their habitat. The two approaches are thus distinct, which creates ambiguity as regards the management of the area especially with respect to the village populations that are dependent upon the area.

2.4 Constitution of a National Park-‘Irregular Procedure & Implications’

Before an integrated approach towards the management of the Dibru Saikhova Sanctuary and the Biosphere reserve could be evolved, the State in another attempt to accord better protection to the area, notified the entire area of Dibru Saikhova WL Sanctuary as a National Park, which is perhaps the most restricted PA category, as no community or individual can have any rights over the area comprised within a National Park. It is important to note that the notification for constitution of the National Park was issued pending the relocation of forest villagers inside. Further there are certain irregularities in the manner in which Dibru Saikhova is constituted a National Park. Before we come to the specific issues pertaining to the constitution of Dibru Saikhova National Park, it is first important to understand the due legal process to be followed in constitution of a National Park.

³⁹ As per personal interaction.

⁴⁰ As per personal interactions.



2.4.1 The Due Legal Process to Constitute National Parks and its Absence in Dibru Saikhova:

As mentioned earlier in the report, National Parks are another category of protected areas. The Dibru Saikhova national Park was constituted in 1999, and subsequently certain important amendments were made to the WLPA in 2002, thus here the law as it stood before 2002 as well as the present provisions would be reviewed to have a better understating of the issue.

Similar to a sanctuary there are three ways⁴¹ of establishing a National Park in India. Majority of the National Parks are declared under Section 35 of the WLPA, wherein the State government constitutes a National Park. For an area to be declared a National Park, a notification of intention is issued for such area, which is of ecological, faunal, floral and geomorphological importance. (Please see figure 2 for the process of constituting national parks) This area may be an existing sanctuary too. For constituting NPs the procedure adopted for settling rights and claims as enumerated for Sanctuaries is followed⁴². A National Park is notified under the following three conditions in the settlement of rights process:

- i) when the period of preferring claims has elapsed;
- ii) when all claims in relation to any land in the area intended to be a National Park are disposed of by the State Government;
- iii) When all rights in respect of land which is proposed to be included in the National Park are vested in the Government.

After the above conditions have been fulfilled the State Government issues a Notification specifying the limits of the area that is being declared as a National Park. Similar to Sanctuaries, the Reserve forests and territorial waters may be notified directly as National Park. The National Park exists from that day. The most distinguishing feature between a National Park and a Sanctuary is that, while in a sanctuary certain rights may be allowed, in a National Park all rights have to be necessarily extinguished from the area. For a detailed discussion on the difference between a sanctuary and a national park, please see Box No. 2.

⁴¹ The second way of declaring a National Park is by the Central Government under Section 38(2) of the WLPA. Finally, erstwhile National Parks declared under various States National Parks Acts may be declared as National parks as under the WLPA.

⁴² From sec 19-26 A



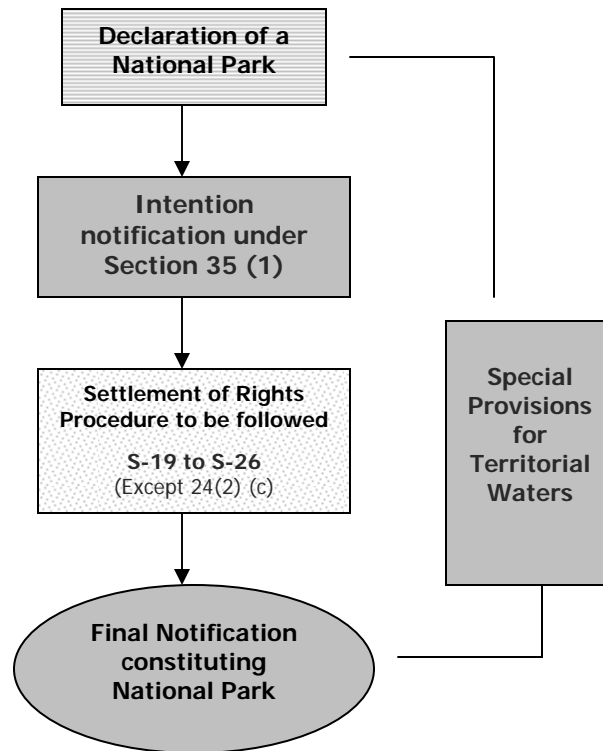


Figure 2: Diagrammatic presentation of Process of constitution of National Park

Box-2
What is the Difference between a Sanctuary and a National Park?

When the Wildlife Act was enacted in 1972 there was a wide difference between what constituted a sanctuary and a National Park. For a sanctuary no intention notification was required and hence every declared sanctuary was considered as a finally notified sanctuary. The settlement of rights was required to be done after the sanctuary was finally notified. On the other hand for a National Park to be declared, an intention notification was followed by a settlement process and thereafter a final notification was necessary to declare a National Park. The above position changed in 1991 when the WLPA was comprehensively amended. Under this new amendment Act the sanctuary was brought almost at par with the National Park provisions with one exception. This exception relates to the fact that while in a sanctuary any right could continue provided the Chief Wildlife Warden was consulted on the other hand for declaring a National Park every right has to be extinguished. It is obvious that a National Park is under a far more protected regime as compared to a sanctuary.

2.4.2 Constitution of Dibru Saikhova National Park and Procedural Irregularities:

If one compares the due process for constituting National parks and the manner in which Dibru Saikhova was constituted as a National Park, it raises questions on the State's approach towards this critical habitat. The Dibru Saikhova was constituted as a National Park in 1999⁴³ when a Notification was issued by the State Forest Department under section 35 of the WLPA (as amended till 1991). Section 35 as explained earlier lays down the procedure for constitution of NP, wherein a preliminary notification is issued, then rights of affected people are settled and thereafter the NP is constituted by issuing a final notification. This three steps process can only be done away with in case of reserved forests and territorial waters. However in case of Dibru Saikhova no inquiry was held as to the rights and claims of people and the erstwhile sanctuary was directly declared as a National Park. As per the State officials there was no need for any inquiry into rights as they were settled at the time of constitution of the Sanctuary. However at the time of constitution of NP, the two forest villages existed inside the area and their relocation was pending. In any case the due process that is laid down under the law has to be followed. No state can by pass any mandatory provision of the law. It was only after the amendment to the WLPA in 2002 that an area in a sanctuary where rights have been extinguished and the land has become vested in the State government may be notified a NP directly without adhering to the process of inquiry and settlement of rights as laid down in the Act. However since the amendment was introduced in 2002 and the Dibru Saikhova NP was constituted in 1999, this provision cannot grant protection to the State's irregular approach towards constituting the NP.

Further while the notification constituting the area as a sanctuary in 1997 recognised the existence of the two villages inside the area and provided for their relocation, the notification for NP was absolutely silent on the existence of the two enclave villages. Since the 'relocation' of the two villages was categorically provided for when the area was declared a sanctuary, the legal status of the sanctuary should have been changed when that condition was met, especially when it was known to the State that any human interface would be heavily regulated once the area acquires the status of a NP.

It is important to note that the settlement of rights in PAs has been one of the most contentious issue before the Indian judiciary. Majority of India's National Parks and sanctuaries have not completed the process of settlement of rights, which has given rise to ambiguities amongst the people as well as lower functionaries of the forest department. The case study of Dibru Saikhova is one such example. Recognizing this ground reality WWF-India in 1995 petitioned the Supreme Court, which mandated all states to provide the status of settlement of rights process in their respective states and respective PAs. It was also intention of the petitioner to understand the States' position on settlement of rights in national parks and sanctuaries, which is in consonance with the situation prevalent

⁴³ Notification for declaration as a National Park, dated 5th March 1999 (N. FRW 21/90/171)

in the preset case study site. In the said case the Court had given one year, starting August 1997, to all states to complete the procedure of settlement. The Central Government was asked to provide a scheme and also give details as to how they are going to deal with the issue of settlement of rights. Even as of 2005 this process has not been completed which just demonstrates the complexity involved in such process⁴⁴. The case is pointer towards the approach of the State to resolve serious issues relating to PA-people interface, especially the issues pertaining to rights and privileges of the people. It also reflects the seriousness with which the higher judiciary is dealing with the issue.

2.4.3 Constitution of Dibru Saikhova National Park and its implications on communities:

The notification constituting the Dibru Saikhova NP did not mention whether the FVs inside the Park would be allowed to exercise their privileges as were permissible in the sanctuary. This combined with the stringent and restrictive regulatory regime applicable in NP would have a great bearing on the populations who are heavily dependent upon the PA for their sustenance as is the case with Dadhia and Laika villages.

Similar to sanctuaries in case of National Parks also there are restrictions with regard to entry and permit system for entry and residence. Entry and residence is only permitted with a permit issued by the Chief Wild Life Warden. Thus now the existence of the villages inside the Park itself has become illegal. A distinguishing feature of a sanctuary and a national park is that while in the case of former the Chief Wildlife Warden may regulate or control grazing or movement of livestock, in case of latter, there is an absolute prohibition on grazing and entry of livestock inside the park, except when the livestock is used as by any person authorised to enter the Park. Thus while in Dibru Saikhova Sanctuary movement or grazing by the livestock belonging to the forest villagers could be permitted subject to certain conditions, after acquiring the status of a NP, the movement of livestock is completely prohibited. However in case of Dadhia and Laika the villagers have a substantial number of livestock and grazing is indispensable. Thus any grazing and movement of cattle would thus be termed as 'illegal'.

Similar to sanctuaries, for NPs also there was no provision relating to removal or exploitation of forest produce till 2003. It was in 2003 when the scope of provision relating to removal of wildlife was enlarged to include forest produce also⁴⁵. Presently as per the provisions of WLPA no forest produce or wildlife can be removed or exploited from a National Park, except on a Permit issued from the Chief Wildlife Warden. The CWW issues such a permit only if he is satisfied that such removal of forest produce or wildlife is necessary for the improvement and better management of the wildlife. Further for the grant of such permit the *National Board of Wildlife*⁴⁶ is also required to be consulted. It is also

⁴⁴ See Order dated 26-07-2005 of CEL-WWF-India Vs Union of India and ors (CWP No. 337 of 1995)

⁴⁵ Section 35 (6) of WLPA

⁴⁶ The National Board of Wildlife has been provided under the Wild Life Protection Act, 1972, with the Prime Minister as its chairperson and Minister-in-charge as it's vice chairperson and other members. The functions of the National Board comprise promoting the conservation and development of wild life and

provided that the forest produce, which is removed from the NP, may be used for the bonafide domestic purposes of the people living in and around the National Park. Because of such stringent provisions regarding removal or exploitation of forest produce from a PA; it became difficult for the villagers to procure forest produce for their bona fide requirements, as they are considered 'illegal' then. The issue has been further aggravated by a Supreme Court order⁴⁷ wherein it was ordered that no removal of dead or fallen wood from National Parks or sanctuaries may be permitted. This has a direct bearing on the PA network and especially for people living in and around such PAs. Although, numerous clarificatory applications have been filed to modify this order but at the ground a lot of confusion exists as to what can or can not be removed in PAs and the nature of development that can take place for meeting bonafide needs of people living within and around PAs. As a result the friction between the forest villagers and the Park management is increasing⁴⁸.

The status of forest villagers is now shrouded in mystery. It is not clear in what capacity are they residing inside the NP. Further any activity that they may undertake for their sustenance is either prohibited or regulated under the law.

2.5 Role of Courts and PA Management:

The Protected Area Management and the conflicts therein have attracted the attention of the higher judiciary on various occasions. Nature of rights of people living in and around the PAs, competing livelihood needs and conservation objectives are some of the contentious issues that have been heavily contested in the courts. The Supreme Court has adopted various innovative mechanisms and strategies such as inquisitionary committees, advisory committees, and referrals to the National Board of Wildlife appointing quasi-judicial body such as the Centrally Empowered Committee to deal with the issues that have arisen in PA management. Amongst the issues that have subjected to judicial interventions, the ones relevant to the present study are being briefly discussed *here under*.

Settlement of rights:

The most contentious issue that surrounds PA management is the question of settlement of rights as it lays down the basis of an effective PA-people interface. Till 1995 about more than 70% of the National Parks and Sanctuaries across the country, the settlement of rights process was not complete. As discussed this issue was contested in *Centre for Environmental Law, WWF-I Vs Union of India*⁴⁹ wherein it was prayed that the provisions of the WLPA including settlement of rights within National Parks and Sanctuaries be implemented expeditiously. The court has passed several interim orders in the present case. One of the orders was to issue proclamation notifications and most importantly in the context of the

forests including framing policies and advising the central and the state government on ways of promoting wildlife and forests etc.

⁴⁷ T.N. Godavarman vs UoI (202 of 1997) order dated 14.02.2000

⁴⁸ As per personal interactions.

⁴⁹ AIR 1999 SC 354



present study, settlement of rights as contemplated by the Act within a period of one year. However the status of settlement of rights is yet not clear though the States initially filed affidavits to appraise the court about the status of the process but lately the states even stopped filing affidavits. As a result the Apex Court very recently directed the Counsels of both the sides to appraise it about the current status of settlement of rights in a very strict language⁵⁰. As emerging from this case, what is disheartening to note is that out of 570 National Parks and Sanctuaries that exist in the country, in more than 70% of national parks and sanctuaries the settlement of rights process is not yet complete even after 33 years of the existence of the Act. This case which is now pending for over 10 years in the Apex court makes it clear that in a PA Management strategy especially in National Parks where the law mandates extinguishments of rights, a carefully drawn record of rights with clear jurisdiction must exist prior to declaration of such PAs. The communities who are affected must participate in the formation of the PA itself so that the question of rights and the exercise thereof can be clearly settled.

Livelihood and Rights to Access

Another key issue that has a bearing on the present case study of Dibru Saikhowa is the fundamental right to livelihood of the forest villagers at micro level and a fundamental concern of healthy environment at a macro level. Often the issue of livelihood of resource dependent community and conservation of the resource are pitched against each other, which may not necessarily be a correct strategy. Thus for example, in *Pradeep Krishen Vs Union of India*⁵¹ the State of Madhya Pradesh issued an order permitting collection of *Tendu* leaves [a leaf use for rolling local cigarettes] from sanctuaries and National Parks by villagers living around these boundaries in lieu of their traditional rights. The writ petition was filed challenging the legality and constitutional validity of such order issued by the state of Madhya Pradesh, Department of Forest. The court laid down that the only reason to permit entry and collection of tendu leaves is that the state government has not acquired the rights of the villagers/tribals. Thus the court in this manner attempted to balance both the livelihood needs arising out of traditional rights on one hand and protecting the environment due to a constitutional obligation on the other. ***Animal and Environment Legal Defence Fund Vs Union of India*** and others [AIR 1997 SC 1071] was another case wherein the question of livelihood and protection of the environment was witnessed. This case related to the grant of 305 fishing permits to tribals formerly residing in the Pench National Park area in the State of Madhya Pradesh. In this case an important point of law that emerged was that while every attempt must be made to preserve the fragile ecology of the forest area and protect the tiger reserve, the right of the tribals formerly living in the area to keep body and soul together must also receive proper consideration. Undoubtedly every effort should be made to ensure that the tribals when resettled are in a position to earn their livelihood.

⁵⁰ Order dated 26-07-2005 in W.P. (C) 337 of 1995

⁵¹ AIR 1996 SC 2040

Thus it is clear from the above description that courts while dealing with larger global concerns on conservation of wildlife and forests are considerate about the local level concerns of those who depend on these natural resources for their lives and livelihoods. In order to strike an effective balance between the global and the local concerns the courts have stressed the state should follow effective management practices.

2.6 Some Key Concerns from Dibru Saikhova

After discussing various changes in the legal status of Dibru Saikhova since 1890 till date and its implications for the two forest villages, it is now important to pen down a few key concerns that surface the Dibru Saikhova PA today. It is important to discuss these issues as they raise potential questions on PA management and it is around these questions that pointers for a better PA management strategy as emerging from Dibru Saikhova are located.

2.6.1 'Relocation' or 'Rehabilitation' of FVs:

The most contentious issue in Dibru Saikhova NP is the 'relocation' or 'rehabilitation' of the people which has been pending for years. Since the Park Management sees the forest villagers as a potential threat to PA management 'relocation' of these villages is seen as a 'potential mitigation measure'⁵² The State is thus not contemplating the option of conversion of these villages into 'revenue villages' as per the national guidelines. The villagers, on the other side are also willing for such relocation outside the Park because of poor living condition inside.⁵³ However if both the sides are ready for relocation then it is not clear why such relocation is not happening, especially for more than ten years. The State justifies the delay with non-availability of suitable land. The issue of 'relocation' has been reduced to revenue vs. forest department tussle, while it is the people who are bearing the burnt of such delays.

Another issue in the proposed relocation is manner of 'relocation' itself. It needs to be borne in mind that the villagers need 'rehabilitation' and 'resettlement' and not merely 'relocation'. The State though has planned to create village relocation zones, wherein all necessary amenities; infrastructure shall be provided, apart from providing financial assistance to the relocated forest villagers⁵⁴, this plan is still on paper. It is thus submitted that such plan should be given effect to on a priority basis.

2.6.2: Encroachments inside PA:

Another concern for the Park management is encroachments inside the Park. As per them the forest villagers are encroaching upon the lands beyond the area that was allotted to them initially. However terming such occupants, as 'encroachers' would be too simplistic.

⁵² A Brief Impact Assessment Note on the Existence of Enclaved Settlement in Dibru Saikhova National Park (Based on the Management Plan Prescriptions); gathered from the District Wildlife Division

⁵³ See PA Update February 2006 (No. 59) "Villages Demand Proper Arrangements for Relocation from Duibru Saikhova NP"

⁵⁴ A Brief Impact Assessment Note on the Existence of Enclaved Settlement in Dibru Saikhova National Park (Based on the Management Plan Prescriptions); gathered from the District Wildlife Division



It needs to be borne in mind that when the land was initially allotted to these villagers fifty years back, the total household were not more than 200, however with time the population of villagers has increased which is very natural that they would move beyond the place that is allotted to them. Thus as a result the erstwhile villagers are also being seen as encroachers. Apart from the alleged encroachments by forest villages the FD also claims that certain people not belonging to the two villages have encroached upon the PA. As per them there are significant variations in data collected from various sources denoting the actual number of households deserving resettlement. The mechanism evolved by the FD to distinguish between an erstwhile forest villager and an encroacher is also full of contradictions. The FD only considers the people settled in the original settlements as 'genuine' forest villagers, rest every other villager is concerned as an encroacher. As explained before this system would result in depriving a number of people who moved out of the original forest settlement on account of lack of space there, from the benefits of rehabilitation. Thus the issue of encroachments needs to be settled before rehabilitation of villagers is given effect to so as to ensure that no genuine forest villager is denied of the benefits that he deserves.

2.6.3: Non Compliance with the Due legal Process: What should be the way through

An important question that the present study raises is what should be the way through when the due process of law is not followed in creating a conservation category. In the present case study we saw that not only was the National Park created without inquiry into rights, but also an important step in the process that was envisaged at the time of establishing Dibru Saikhova sanctuary, i.e., relocation of FVs, was also not completed. Such procedural irregularities on the part of the State have resulted in aggravating the problems of the villagers. It is not clear how such a situation should be dealt with, the law does not answer the question, however since the procedure laid down under the law is not complied with, the general understanding is that the entire process is considered invalid. It is thus necessary that such procedural irregularities are checked at the right time and corrective measures are taken.

2.6.4: The Bonafide requirements of the FVs or 'illegal' activities:

Another concern that the present case study raises is how a forest villager settled inside the NP can meet his basic requirements without violating the law. As we have seen before the WLPA is very restrictive with respect to residence of people inside the park, keeping of live stock, exploitation of forest produce etc, which are bare minimum essentials for these forest villagers. They need firewood, fodder, timber to build houses, minor forest produce for their sustenance and thus anything they do to meet their requirements is termed as 'illegal'. The prohibition of removal of dead, diseased, dying or wind-fallen trees, driftwood and grasses etc. from any National Parks as imposed by the Apex Court has further aggravated the issue. Thus it has become one of the most critical concerns for the Park management and needs urgent attention.

2.7 The Way Ahead: From People's Perspective

As is clear from the description above it is the poor forest villagers who have been bearing the burnt of the irregularities at the administrative level. The conservation of critical habitats is important, however the same cannot be achieved without following the due process and overlooking people's concerns. Since there are procedural flaws in the way Dibru Saikhowa was constituted a National Park, it is submitted that the state should clarify its stand on the issue. Alternatively the Notification of 1999 cannot be treated as a final notification for the National park, it is at best be considered an intention notification. There is a need to rehabilitate the two forest villages as was envisaged under the notification declaring Dibru Saikhowa as a sanctuary and that too in a transparent, effective and expeditious way to ensure no genuine forest villager is deprived of his rights.

2.8: Towards a Good PA Management Strategy: *Pointers emerging from Dibru Saikhowa PA:*

The case study of Dibru Saikhowa PA, amidst the debates and conflicts raises certain important pointers towards good PA management that need further deliberation. It is clarified that the present Study cannot provide any national level recommendations as it is based only on a particular site, it can however raise critical questions that would be relevant for all PAs across the country.

- *Compliance with the due process:* One of the most important points that emerges from the present study is the need to ensure compliance with the due legal process while changing the legal status of any conservation category. Non-adherence to the process results in ambiguities and conflicts on the ground. There is also a need to introduce a mechanism for checking or monitoring to ensure whether the due process was followed or not.
- *Clarity in PA-People Interface:* To ensure effective PA management it is important to bring in clarity in PA-People interface. When rights or privileges of people are not clear in a PA, as happened in the present case, it results in increasing friction between the PA management and the people.
- *Need for Impact Assessment:* There is no doubts that change in legal status of a conservation category have the potential to impact people who are dependent on that forest or PA for their sustenance. Thus it becomes necessary to assess such impact of any proposed change in the legal status before it is given effect to and to take corrective measures to ensure that minimum adverse implications on the resource dependent communities.
- *Exploitative forestry practices be corrected:* It is now well known that age old forestry practices such as establishment of forest villages inside reserve forests, wherein people were not only settled in remote and accessible areas but were also

deprived of rights on either the land that they occupied or the forest produces that they depend on, were exploitative. The need of the hour is to put an end to such practices by taking corrective measures and to rehabilitate these populations across the country. For that purpose either the FVs may be converted to RVs or they may be rehabilitated and resettled outside the PAs or forests areas.

- *Rehabilitation Time bound:* Whenever the State decides to rehabilitate or resettle FVs outside PAs/Forest areas, there is a need to make the process time bound and un warranted delays in the process should be checked.
- *Bonafide Requirements should be addressed:* The bonafide requirements of the people should be addressed till they are rehabilitated. For Sanctuaries there is a provision in WLPA that till the process of inquiry and settlement of rights is not completed, the State is required to make alternate arrangements for making available fuel, fodder and other forest produce to persons affected⁵⁵. Such provision should be introduced for National parks also.
- *Stakeholder Consultation:* The case study also brings to light the need for consultation with stakeholders at various levels of decision-making. The affected populations should also be consulted when any change in the legal status of a forest/PA is proposed. Further they should be made fully aware of the implications of such change beforehand.

⁵⁵ Section 18 A, WLPA.

III. KEY LEARNINGS

The key learnings from the case study, both from the field and from the legal study may be summarized as follows:

- The change in legal status of a conservation category is not a mechanical process of issuing notifications, it should be done in considering its potential impact on the people and taking steps to involve them in decision making and take remedial measures so that the adverse impact on the community is minimized.
- The change in legal status *per se* would not ensure better conservation or protection of the PA, if the change is carried out without following the due legal process or unmindful of its impact on people, then it may result in creating conflicts and ambiguities as happened in case of Dibru Saikhova.
- At present there is no mechanism to ensure whether the due process is complied with or not while changing the legal status of a conservation category, there is a need to bring in accountability, responsibility and transparency in the process.
- The numerous forest villages existing across the country are living in deplorable conditions, it should be the responsibility of the State ensure their development by either converting them into revenue villages or rehabilitating them elsewhere.

IV. CONCLUSIONS

After discussing the past as well as the present issues that are surfacing Dibru Saikhowa, especially the two forest villages of *Dadbia and Laika*, it can be said that this is not merely a PA-People conflicts as is portrayed in the present case. The conflict finds its roots in procedural flaws and lack of foresightedness on the part of the government machinery. Therefore it cannot be resolved merely by ‘relocating’ the forest villagers, as that mechanism again is full of contradictions. The state should first clarify its stand on the notification declaring Dibru Saikhowa a National park and accordingly it should either be restored to its original status of a sanctuary by declaring that the notification is defunct or the 1999 notification be treated as a preliminary notification and it should not be finally declared a National park till the villages are rehabilitated. The state should also evolve an alternate mechanism to identify beneficiaries for rehabilitation, as the current mechanism seems unjust and unfair.

ACKNOWLEDGEMENTS

The present case study would have been incomplete without the valuable guidance and support provided by Sh. Sanjay Upadhyay, especially in conceptualizing the idea and for strengthening the legal arguments. The Author also acknowledges the inputs provided by the field researcher, Urmimala Chaudhuri who spent countless hours on the field to appraise the Author of the ground situation in Dibru Saikhowa. The Author feels indebted to the Forest Department in Tinsukhia forest division, especially Sh. Anirudh Dey, DFO, for providing his precious time and sharing his in-depth knowledge about the area and issues under the study. Lastly, the Author wishes to thank her colleague Apoorva Misra for providing assistance at all levels.

BIBLIOGRAPHY

List of Laws Referred

National Level

1. Constitution of India
2. Wildlife (Protection) Act, 1972
3. Forest (Conservation) Act, 1980
4. Bio-Diversity (Conservation) Act, 2002 & Bio-Diversity (Conservation) Rules, 2003

Policies & GOs

1. National Forest Policy, 1988
2. Letter by MoEF to all States' FD's dated 18.9.90, No. 13-1/90-FP (1) regarding encroachments on forest lands
3. Letter by MoEF to all States' FD's dated 18.9.90, No. 13-1/90-FP (2) regarding review of disputed claims over forest land arising out of Forest Settlement
4. Letter by MoEF to all States' FD's dated 18.9.90, No. 13-1/90-FP (3) regarding pattas/leases/grants on forest lands
5. Letter by MoEF to all States' FD's dated 18.9.90, No. 13-1/90-FP (5) regarding conversion of FVs into RVs and settlement of old habitations.
6. Letter dated 5.2.2004 issued by MOEF, GOI, to all States & UTs (Chief Secretaries, Principal Secretaries & PCCFs) regarding regularization of the rights of the tribals on the forests lands

State Level

1. Assam Forest Regulation, 1891;
2. General rules framed under Assam Forest Regulation having force of law
 - i. Rules for the Establishment & Control of forest villages (Chapter-7)
 - ii. Rules for Eviction from Reserve Forests (u/s 72 (c) of AFR)
 - iii. Orders regarding Forest Settlement and Notification of Boundaries;
3. Assam Wildlife Protection Rules, 1980
4. North East Forest Policy
5. Draft Assam Forest Policy

PA Level

1. Preliminary Notification for declaration of Dibru Saikhowa WS, dated 26th Sept 1986 (No. FRW: 51/86/8)
2. Final Notification for declaration of Dibru Saikhowa WS, dated 2nd March 1995 (No. FRW-21/90/122)



3. Notification for declaration of a Bio-sphere Reserve, 1997
4. Notification for declaration as a National Park, dated 5th March 1999 (N. FRW 21/90/171)
5. Letter issued by the Joint Secretary MoEF, to the Chief Secretary, Assam Government establishing Dibru Saikhowa Bio sphere Reserve, dated 28 July 1997.

Other:

1. MAB guidelines by UNESCO on Bio Sphere Reserves;

Books & Papers

1. Upadhyay S & Upadhyay V; Handbook on Environmental Laws (Vol I)-*Forest Laws, Wildlife Laws and the Environment*, First Edition, LexisNexis, New Delhi;
2. Upadhyay S & Kothari A: 2001: Guide to Legal provisions in Protected Areas, Print World
3. Upadhyay S. & Jain S: 2004: Community Forestry and Policy in North East India: *An Historical Legal Analysis*, Community Forestry International
4. Arupjyoti Saikia: 2005: *Jungles, Reserves, Wildlife: A History of Forests in Assam*, Wildlife Areas Development and Welfare Trust

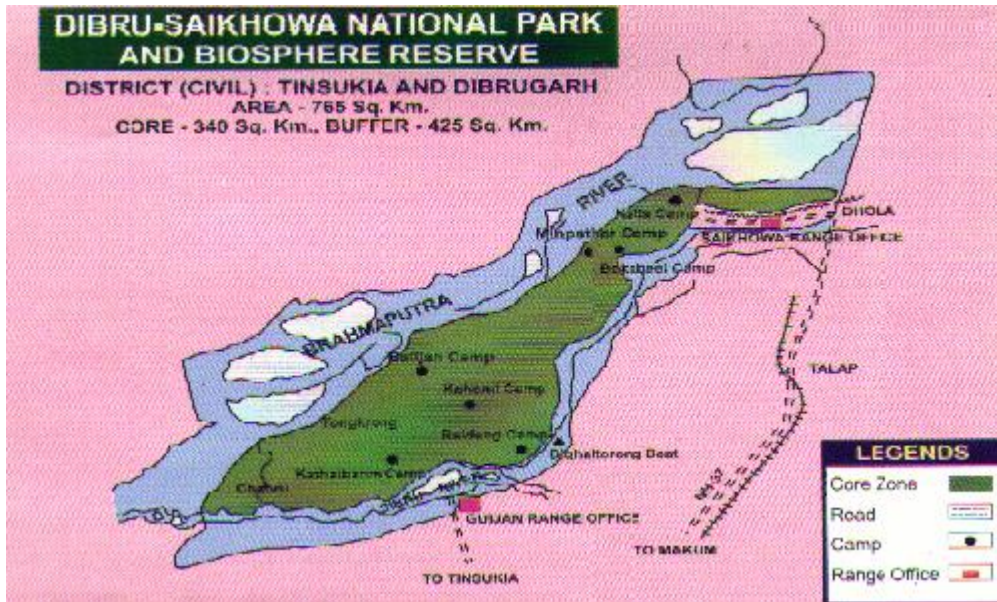
PUBLICATIONS AND WEBSITES

- Details on Bio Sphere Reserves: <http://www.wii.gov.in/envis/index.html>, and <http://www.unesco.org/mab/BRs.shtml>
- Profile of Dibru Saikhowa: <http://tinsukia.nic.in/dibru.asp>

Journals/periodicals

- The Assam Tribune dated September 2, 2003 (More than 400 logs recovered from national park's vicinity),
- Protected Area Update Issue 45, October 2003 (Large scale timber trafficking in Tinsukia; source of timber suspected to be Dibru-Saikhowa NP)
- The Hindu dated Sep 21, 2005; ULFA militants holed up in National Park;

MAP



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BRIEF DESCRIPTION OF ASSOCIATION:

How have the author/ s and for how long have they been associated with or observed the issue documented in the case?

The author has been familiar with North Eastern States and their regulatory framework vis-à-vis forests and wildlife. In a Study commissioned by Community Forestry International on community forestry policy in the North East India, the author, during 2003-2005, co-assessed some field situations from the legal and policy stand point and community rights emerged as one of the key concerns in PA Management. The author came to know about the conflict in Dibru Saikhowa through her field researcher Ms. Chaudhuri, an environmental lawyer from Assam, who has been following the natural resource issues in the North East from a long time. However the present issue could not be perused comprehensively at that time because of various constraints. It was only during the present assignment when the author got the opportunity to review, understand and analyze the issue of changing legal categories in Dibru Saikhowa.

Apart from site of the present case study, the author has also worked on numerous projects and studies relating to different facets of PA management in India. The Author assisted her senior as a research associate in the India Eco Development Project (IEDP) undertaken in few Tiger reserves across the country. Presently the Author is also closely working on the second phase of the IEDP, which now focuses on bio diversity conservation and rural livelihoods at landscape level and is termed as the Bio Diversity Conservation and Rural Livelihoods Improvement Project. Both these projects are undertaken under the aegis of the Project Tiger (MoEF) and the World Bank.

Annexure -1

List of Villages located in the fringe of Dibru Saikhova National Park under Tinsukhia Wildlife Division:

1. Bagoritolia Village;
2. North Balijan;
3. Raidang Mising Basti;
4. Raidang Bangali Basti
5. Rangmala;
6. Tengabari;
7. Mirigaong;
8. Geraki;
9. Chirakhowa;
10. Alubari;
11. Khamtigohali;
12. Garamjan;
13. Arahuti;
14. Wamabi;
15. Garua Kutta;
16. Naharani;
17. Kalipani;
18. Khajuatee;
19. Baghjan;
20. Dighaltorong;
21. Dighaltorong 5 No. line;
22. Daijan;
23. Somaijan;
24. Kaitia;
25. Mariahaga;
26. Barchagoli;
27. Behaka;
28. Longpee
29. Ajukha
30. Kialashpur
31. Kachudubi
32. Naokatta
33. Garoimari
34. Hatighuli
35. Bagibeel;
36. Kalia;
37. Bormura
38. Mripathar;
39. Dhala