



## APPLICATION OF THE SYSTEM OF ACCESS AND BENEFIT SHARING IN SONITPUR DISTRICT OF ASSAM

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### ABSTRACT

Access and Benefit Sharing (ABS) was incorporated at the international level to facilitate Biological Resources (BR) conservation through sustainable commercialization. And to give force to this purpose, the Convention on Biological Diversity and the Nagoya Protocol created the ABS framework and making it obligatory for the member states to adopt such a framework at the national level. Consequently, under the Biological Diversity Act (BD Act), 2002, India is a Member State implementing the above mechanism. The same applied to the Assam state of which Sonitpur District is also a part.

This article is based on the findings made by a doctrinal study in the Sonitpur District of Assam on the issue associated with the effectiveness of the BD Laws forming the ABS in the said region and concerning the status of application of such a system.

### KEYWORDS

Access and Benefit Sharing; Biodiversity; Biological Resources; BMCs; Genetic Resources; Local Communities; and State Biodiversity Board

### INTRODUCTION

Sonitpur district lies on the plains between the foothills of the Himalayas and the valley of the Brahmaputra which forms its southern border. It is spread over an area of 5,324 square kilometers, with a human population of 1,925,975.<sup>1</sup> As per Biological Resources (BR) is concerned, Assam as a whole is regarded as a Biodiversity (BD) Hotspot in India due to its wholesome environment for most of the rare endangered as well as common species of both plants and animals. Sonitpur District too is home to several wildlife sanctuaries and national parks like - Nameri National Park, Orang National Park, Burachapori Wildlife Sanctuary and Sonai Rupai Wildlife Sanctuary. It is also home to the registered forests (RF) of Behali RF, Naduar RF, and Charduar RF.<sup>2</sup>

Due to the substantial depletion of these organisms in the region for which many legal institutional structures have been developed, issues are growing. This is also claimed that illicit bio-trading and uncontrolled commercial practices lead to the depletion of BR, for which the Biodiversity Management Committees (BMCs) have been formed and rendered functional under the authority of Assam State Biodiversity Board (ASBB) to monitor the commercial usage of such BR under the guidelines of BD Act and the further Access and Benefit Sharing (ABS) guidelines. It is observed that a fair sharing of the benefits deriving from the commercial use of BR with the local communities (LCs) encourages those communities associated with the process of preserving these BRs from successive generations and thus fulfills the duty of

<sup>1</sup> Sonitpur District, AssamInfo,( May 20,2020, 10.04 am),  
<http://www.assaminfo.com/districts/24/sonitpur.htm>

<sup>2</sup> Sonitpur District, AssamInfo,( May 20,2020, 10.04 am),  
<http://www.assaminfo.com/districts/24/sonitpur.htm>



safeguarding these BRs in general.<sup>3</sup> Also, this institutional structure would govern the commercialization of BR to guarantee the fair usage of these assets so as not to undermine the interests of future generations. The connection between BR protection and marketing can be taken from the Biological Diversity Convention, (CBD) 1992 itself. It is even argued that BD-based manufacturing, collection, transformation, and marketing of goods and products that meet specific sustainability criteria can assist in creating BR conservation and sustainability incentives. Because of this, CBD guarantees sustainable Bio-trade and it has been executed by India through the BD Act of 2002.<sup>4</sup>

Thus the main highlight of this paper would be on the question that whether the Legal Framework monitoring ABS framework in Sonitpur District, Assam is proper enough to apply the mechanism? If yes, then whether it has been applied properly and if no, then what are the possible loopholes in such a Legal Framework?

### MEANING OF ACCESS AND BENEFIT SHARING

Access- It refers to entering a place where BR is present, inspecting them for commercial or non-commercial use in the development of a product, taking samples or acquiring their related Traditional Knowledge (TK), and utilize them for any scientific analysis or research in marketing.

Benefit Sharing- It involves sharing the profits accrued out of the usage of the BR and its related expertise to the degree accepted by the manufacturers and consumers of the BR.

Access in a general sense involves entering a location to collect a material object. Nevertheless, from the perspective of BD, the 1992 BD Convention talks about guaranteeing a fair distribution of the benefits derived from genetic resources. Therefore, Article 5 of the Nagoya Protocol specifies that the advantages obtained by the usage of genetic tools and corresponding applications and commercialization, to be equitably and fairly shared with the provider of those resources. This sharing shall be subject to mutually agreed conditions.<sup>5</sup>

### NATIONAL AND LOCAL LEGAL FRAMEWORK ON ACCESS AND BENEFIT SHARING

Biological Diversity Act, 2002<sup>6</sup>-

This 2002 Act was implemented to accomplish CBD's three key goals in India, through- Preservation of BD; Sustainable BD Usage, and FEBS. To enforce the provisions of the Act, three separate agencies have been established at various levels -NBA at the national level to be developed by the central government, SBBs at the state level to be formed by the State Governments, and the Local BMCs at the local level.

<sup>3</sup> Access and Benefit Sharing: A Mechanism for Empowering Local People, Assam State Biodiversity Board (2018).

<sup>4</sup> Biodiversity and International Trade, CBD (Apr 30, 2019, 01:11 AM) <https://www.cbd.int/incentives/int-trade.shtml>.

<sup>5</sup> United Nations Convention on Biological Diversity, 1992.

<sup>6</sup> Biological Diversity Act, 2002, No. 13, Acts of Parliament, 2003, (India).



NBA manages the Foreign National's request for access to BR, while SBBs handle the Indians' request for such access, and BMCs are primarily responsible for keeping accounts of the individuals who belong to LCs along with their BR of which they are the owners and TK.

The Act specifies the method and type in which approval is to be sought from the authority involved and the LCs before accessing the BR, and also prohibits certain persons from obtaining authorization. It also includes a list of commodities of items that are exempted from the requirements needed as set down by the Act and are regarded as Normally Traded Commodities (TNC) that list to be approved by the Central Government according to Section 49 and now includes 421 products. This list is excluded from the implementation of Section 3 and Section 4 and also not applicable in works of collaborative research. The Act prohibits collaborative research ventures under agreements previous to the enactment of this Act to the degree that they are incompatible with the terms of this Act and its guidelines. The subjects of collaborative research projects to which this provision is applicable are stated under Section 5(1).

Biological Diversity Rules, 2004<sup>7</sup>

As provided for in Section 62 of the BD Act, 2002, the Central Government has defined the 2004 BD Rules to control the activities of the NBA and also the ABS program. This usually provides for the selection of representatives to the BD

Authorities; their wages, tenures, and qualifications; how meetings and the establishment of specific committees were to be held; the sum of fees and rewards to be paid to the BR accessor and allocated to the LCs respectively; the methods and processes for accepting applications for BR access, etc. Guidelines on Access to BR and TK and Benefit Sharing Regulation, 2014<sup>8</sup>

It provides for the mode of Benefit Sharing; determination of such sharing; mode of transfer of access to third parties; most importantly it exempts Indian persons researching BR for Bio-utilization and Bio-prospecting.

#### *Judicial Interpretation*

This section will deal with some of the important cases on ABS machinery as decided by the Indian SC and will be examined for understanding the idea of ABS from the jurisprudential perspective.

*Dilip Mishra v. Union of India & Others*-<sup>9</sup>

In this case, the NGT responded by establishing guidelines through which it was instructed to make provisions for the recognition of significant BD locations such as BD Heritage Sites and also to provide for the rehabilitation of those impacted commercially by these decisions. It furthermore instructed the government of the State to recognize endangered BR for the designation of BD Heritage Sites. Thus, many of the NGT set out instructions to prohibit commercial activities for the preservation of the rare BR.

<sup>7</sup> Biological Diversity Rules, 2004, Ministry of Environment & Forests, Govt. of India

<sup>8</sup> Operational Guidelines to the State Biodiversity Boards for Processing of Application for Access to Biological Resources received under Section 7 of the

Biological Diversity Act, 2002, 2014, Ministry of Environment & Forests, and Govt. of India.

<sup>9</sup> Original Application No. 06/2014 (CZ), N.G.T. 2014 (India)



Sri Baiznath Chaurasia v. Western Coalfields Ltd. & Others- [9]

In this case, since the question of whether coal is a BR or not has been brought up, the concept of BR under CBD and also the BD Act along with many other connected provisions was meticulously interpreted. While several issues were eventually addressed it was decided that coal is not a BR and thus the respondents are not entitled to incur any charges under the BD Act for access to energy. Nevertheless, this case demonstrated the need for a thorough understanding of the concept of BR as it applies for all Biological species like GR and coal is a plant-derived fossil fuel too much uncertainty emerged when determining this specific case.

Chandra Bhal Singh v. Union of India & Ors<sup>10</sup>–

In this case, the Petitioner filed a petition in the NGT in the Tribunal alleging that the NBA and the MoEF&CC did not take the matter of the establishment of BMCs in India seriously and that only 30 percent of the BMCs were constituted as per the necessary targets. Therefore, the Tribunal ordered the respective authorities to take the matter seriously and update the measures taken in this behalf through regular reports.

Divya Pharmacy v. Union of India<sup>11</sup>–

Ramdev, in place of Divya Yoga Mandir Trust at Haridwar, filed a petition against the Uttarakhand SBB in the

Uttarakhand High Court for an order to share Rs. 20.4 million out of its 4.21 billion revenue earned in 2014-15 with the farmers as a share of the Divya Pharmacy's benefits through the use of the BR. Although Patanjali argued that it would not be held accountable for becoming an Indian entity, under the BD Act for sharing its benefits.<sup>12</sup> The HC understood the definition of FEBS (Fair and Equitable Profit Sharing) and gave it a specific sense. This also holds that while the strict interpretation of Sections 3 and 7 of the BD Act does not render an Indian individual responsible for sharing its income under FEBS, it is also valid that what seems evident does not always have to be right. The Court thus observed that the national authorities are not only liable for providing preliminary knowledge to the respective SBBs before receiving any BR, but also for sharing their income with the LCs received by the usage of these BR.<sup>13</sup>

Assam Biodiversity Rules, 2010-

Such Rules were adopted as an addendum to the rules of Section 63 of the BD Act 2002 in the State of Assam. Such Rules provide for the selection, salary, compensation, dismissal, etc. of the Chairperson, Member-Secretary, Non-officials, and any other representatives needed by the State BD Board. The following Members shall be named as Ex-officio members- the Secretary/Commissioner of the Environment and Forest Department of the Assam Government, the Secretary/Commissioner of the Assam

<sup>10</sup> Original Application No. 28/2013 (CZ) & Original Application No. 17/2014 (CZ), N.G.T. 2015 (India).

<sup>11</sup> Original Application No. 347 of 2016, N.G.T. 2018 (India).

<sup>12</sup> Uttarakhand H.C., W.P. (M/S) No. 3437 Of 2016, (2018) Uttarakhand.

<sup>13</sup> S.S. Rana & Co., India: Access and Benefit Sharing under CBD and the Ayurveda Industry, Mondaq, (Nov. 13, 2018, 11:10, PM), <http://www.mondaq.com/india/x/730062/Environment-Law/Access-And-Benefit-Sharing+Under+CBD+And+The+Ayurveda+Industry>.



Agriculture Department, and the Chief Conservator of Forest, BD and the Directors of the Assam Fisheries as well as the Agriculture Departments. The headquarters shall be in Guwahati. The Committee shall sit four times a year and attend sessions. More notably, the Rules provide for the Board's duties, which include informing the Government of the State on matters related to the protection, management and fair usage of BR and also on the distribution of profits from the use of such BR, To employ a competent consultant for these purposes, to approve and govern the procedures for any access by any Indian national to BR, to control the ABS process, to constitute BMCs at the level of Zila panchayat, gaon panchayat and the level of the municipality and certain other functions. The Board also has the duty of providing regular accounts of its operations and overseeing all practices relevant to the operation of the BMCs. In brief, the Board will execute all the roles set down in the BD Act.<sup>14</sup>

#### **Assam State Biodiversity Board**

On 28 September 2010 in the exercise of the powers provided for in Section 2(i) of the BD Act, the Assam Government constituted the ASBB. The Board was formed in the manner provided for in the 2010 State BD Rules. The Board headquarters is situated in Panjabari, Guwahati, at the head office of the Assam Forest Department (Aranya Bhawan) building.

The Board is liable for carrying out all of the duties as defined by the BD Act and the State BD Laws. The Board's dream is to wonderfully and safely compensate the State's BD financially to grant the LCs ownership rights for the survival of the BR. The Board undertook many projects such as the organisation of the Biodiversity Volunteer Initiative Program where amateur students are granted the opportunity to publish their documents, images, etc. in order to contribute to the upgrading of the websites with the goal of providing a knowledge base for the gathering and distribution of information relating to BD protection and environmental safeguarding for the common masses; Internship initiatives on BD Conservation for the development of a research skills among youths between the age group of 20-30 years from the life science stream where fellowship ranges from Rs.5000-10,000 and students are expected to work under the Board's supervision for a duration of 3 months where they can use the vacation duration and other leisure time in order to expand their experiences and contribute their proficiency, knowledge, and efforts in forming up a scientific approach for the preservation of BD; The Board also controls the preparatory function of the PBR where Rs50,000 is provided to each BMC with the help and advice of the Board for the planning of their PBR in their respective jurisdictions; and also tracks the other operations of the BMC and serves as an liaison between the NBA and the BMCs.<sup>15</sup>

<sup>14</sup> Ritwick Dutta, The Divya Pharmacy an important precedent on Biological Resource use, The Telegraph (May 11, 2019, 10:13 PM) <https://m.telegraphindia.com/opinion/the-divya-pharmacy-case-uttarakhand-court-sets-an-important->

legal-precedent-on-benefit-sharing-from-biological-resources/old/1683795.

<sup>15</sup> Assam Biodiversity Rules, 2010.



**Biodiversity Management Committees in Assam**

BMCs shall be established at the local level under the BD Act to which the Assam ASBB promotes and encourages the constitution of BMCs at the state level of Anchalik Panchayat. The primary role of these BMCs is to maintain, preserve, document, and give scope for the sustainable use of the BR found in their respective jurisdictions including habitat preservation, conservation of the local people's landraces, local folk, and cultures as well as their TK. They will include a total of 7 members from the local body amongst whom one-third shall be women members, seven local members who are expertise in NTFP collection, fisheries, and other such connected facets.

5. five invitees from government departments like agriculture, fisheries, horticulture, education, etc. the chairman shall be appointed by the members.<sup>16</sup> In addition to these BMCs, there are further BMCs formed in the three Autonomous District Councils under their respective forest jurisdiction in which 21 BMCs are constituted in the Bodoland Territorial Council, 10 BMCs in the Karbi Anglong Autonomous Council, and 9 BMCs in the Dima Hasao Autonomous Council.<sup>17</sup>

There are 14 BMCs constituted so far in the Sonitpur District, which are listed below<sup>18</sup>

List of BMCs in the Sonitpur District-

Sl. No	Name of BMCs	Chairperson	Member Secretary
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1	Rangapara Anchalik BMC	Shri Sankar Keot	Shri Pranab Kr. Sarma
2	Dhekiajuli Anchalik BMC	Smt. Bandana Sasoni	Shri Netrajyoti Gayan
3	Borsola Anchalik BMC	Smt. Bibha Das	Tilok Talukdar, Fr-I
4	Gabharu Anchalik BMC	Smt. Mamani Borah	Shri Suraj Kr. Nath
5	Bihaguri Anchalik BMC	Shri Nabinson Basumatary	Shri Pradip Nath
6	Balpara Anchalik BMC	Shri Mohindra Chetry	Bhanu Ranjan Bora, Fr-I
7	7 No Naduar Anchalik BMC	Shri Dipak Borah	Shi Uma Banua
8	Sootea Anchalik BMC	Smt. Kajal Borah	Shri Himandrapathak
9	Biswanath Anchalik BMC	Shri Santanu Bhuyan	Shri Himandrapathak
10	Sakomath Anchalik BMC	Smt. Damayanti Ramchiari	Md. Saidul Alam
11	Baghmora Anchalik BMC	Shri Dulal Saikia	Md. Saidul Alam

<sup>16</sup> A.K. JOHARI, ACCESS AND BENEFIT SHARING: A MECHANISM FOR EMPOWERING LOCAL PEOPLE, Assam State Biodiversity Board (2018).

<sup>17</sup> Balakrishna Pisupathi, Biodiversity Management Committees (Bmcs) Operational Tool Kit, (National Biodiversity Authority) (2013).

<sup>18</sup> List of BMCs, ASBB (2016).



12	Behali Anchalik BMC	Smt. Baby Doimary	Shri Ranjan Borua
13	Chaiduar Anchalik BMC	Smt. Jaya Mili	Shri Pasupati Kanu
14	Pub Choiduar Anchalik BMC	Smt. Jaya Mili	Shri Pasupati Kanu

Table 12: List of BMCs constituted in Sonitpur District

Note- The above information is as per the literature of 2016 while at present this information is subject to change therefore may vary from the current sources, if available.

## ANALYSIS OF THE FINDINGS

### Provisions of the BD Act-

Although the CBD was implemented by the Developed Nations with the intent of testing Bio-piracy, but it also accounted for BR's biodiversity and land usage objectives. Yet the BD Act and its enforcement was claimed to have put a stronger focus on eliminating profit-sharing from BR's economic usage than on BR's protection and sustainable goals. If we observe the Forest Department's functions as specified under Forest Laws and the BD Authorities' functions under the BD Act then we can recognize that the BD Authorities are much more centered on controlling the Act's third objective of controlling ABS mechanism than the first two objectives.

Besides, the BD Act also allows a distinction between Indian nationals and non-

citizens based on their residential and citizenship status. Yet this definition can be challenged on the grounds of constitutional integrity since it appears to contravene Article 14 of the Indian Constitution. Article 14 specifies that every Act allowing such a distinction shall pass the Intelligible Differentia and Rational Nexus checks for the Act. Here, after passing the intelligible differential examination, the designation shall pass the logical nexus check between that categorization and the objectives of the Act, However, the categorization in this Act is made based on citizenship and residential status, to preserve and allow productive use of BR, including an equal and equitable share of the profits arising from the usage of such BR. As such no logical connection exists between such grouping and BR protection objective. This is founded on a preconceived notion that national people and firms do not misuse the BR of the country or the BR of the country is only under pressure from international BR consumers. Although it has been noted, on the other side, that the local population is engaged more directly in illicit bio-trading. However, this distinction often renders it impossible for stakeholders of non-Indian organizations to follow the Act's requirements.<sup>19</sup>

The BD Act provides for revenue distribution with the LCs and thereby allows for PIC. This notion of PIC was incorporated because the LCs are assumed to be aware of the market value of the BR and the related TK for which access or patenting is pursued, Thus, they are in a situation to justify and make a proper decision as to the advantages and disadvantages of such access or patenting

<sup>19</sup> Udisha Ghosh & Chandralekha, Akkiraju, Biodiversity Act, 2002, An Analysis, ACADEMIKE (May 2, 2019, 12:14 AM)

<https://lawctopus.com/academike/biodiversity-act-2002-analysis>.



of any BR or TK in their possession But, within this Act, communication with LCs before making any access to BR is weak in comparison to consent. Consultation with a specific village head or group of prominent persons is enough here to make any access to BR, however, such provision will not permit every member of a specific LC to be represented in the decision-making process before permitting any access to BR. In fact, in states like Assam, where there's a strong influx of illegal immigrants, identifying the word LCs won't be that simple. Therefore, it is impossible to determine who are currently representatives of a specific LC and to whom the ownership rights to a specific BR are entrusted within states such as Assam, where in most instances a majority of the people are outsiders. The Act has not given the factors for describing the members of LCs.<sup>20</sup>

The ABS in India is under progress, but the statute has not made any clear differentiation between GR and BR for which access to a single biological specimen would imply access to GR, which would eventually negate the Actant's entire purpose at the same time that the concept of BR seems to have been understood differently from time to time at various intervals which further creates a lot of uncertainties. Moreover, since the BD Act does not define the owners of the GR, hence it becomes hard to make the users of this GR conform to the law.<sup>21</sup>

#### *Status of Implementation of the Bio Diversity laws*

<sup>20</sup> Ibid.

<sup>21</sup> Pravat Chandro Sutor & Nigamananda Swain, Implementation of Biological Diversity Act in India: An Overview with Case Studies, (Regional Center for Development Cooperation, 2011).

<sup>22</sup> Dr Oinam Sunenda Devi, Scientific Officer, ASBB.

It shows that the application has started but the ASBB has indicated that there has been no implementation for ABS so far, nor has the ABS framework been developed in Assam. The BMCs have confirmed that this Act is being introduced at the local level in the primitive phase.<sup>22</sup>

The Authorities concerned have also reported that the enforcement of this law has a range of problems. Firstly, the BR are arranged by the collectors following their collection from various areas, making it very hard to access from where and in what quantity a specific BR was obtained.<sup>23</sup> Secondly, local citizens are unaware and have not shown concern in enforcing this law either. And thirdly, the most important issue in giving effect to this law is that the people of the State are not bothered about the extinction of a specific species, because the land of Assam is fertile enough to enable a variety of species to develop here for which people can easily move to a substitute BR species whenever a specific species goes extinct. Under the statute, the ASBB is simply an advisory body for which it lacks the authority to take punitive action or compel local firms to conform to the regulations.<sup>24</sup>

#### Absence of Teamwork between the Authorities

Both the Forest Laws and the BD Laws were reviewed in the study, along with the role played by the authorities formed under these two areas of law. Both the Forest

<sup>23</sup> Kaushik Phukan, Ranger, Central Assam Genetic Cell Division, Forest Department

<sup>24</sup> Shalini Srivastava & T.P Singh, Harnam Singh & Satya Kushwaha, Mapping of large-scale deforestation in Sonitpur district, Assam,82, Current science 1479 (2002)



Departments and the BD Authorities are responsible for the management of BR and the enforcement of bio-trade within their particular regions. Interestingly, nevertheless, the analysis showed that there was an absence of unity between these various classes of authorities. It was also observed that the Forest Departments are more institutionally organized than the newly constituted BD Authorities. Also, the Forest Workers are skilled in these subjects and are also professionally trained. Hence, collaboration with the Forest Departments will make it possible for the BD Authorities to work even more productively across their territories, although their functions are distinct. However, most of the Forest Workers have conveyed their naivety about the provisions of the BD regulations and the poor communication from the NBA and the ASBB.<sup>25</sup>

Furthermore, coordination is absent within the operational structure of the BD itself. The legislation makes the NBA liable for consulting the relevant BMCs before the granting of access to any BR and the collection of the gain fees for such access, but no provision has been made in the law explicitly concerning contact between NBA and BMCs in matters related to the protection of BR. Several members of the BMCs have claimed that there is an absence of interaction with both the NBA and the ASBB, which makes it tough for them since they are fresh to this area and do not have the necessary tools to carry out their duties.

<sup>25</sup> Satya Kushwaha & Rubul Hazarika, Assessment of habitat loss in Kameng and Sonitpur Elephant Reserves, 87 Current science, 1447 (2002)

<sup>26</sup> Assam: Illegal timbers, sawmill seized near Tezpur, Northeast Now, (Sept 22,2018) <https://nenow.in/north-east-news/assam/assam-illegal-timbers-sawmill-seized-near-tezpur.html>

#### *Lack of Awareness amongst the Local People*

Execution of such laws would never be feasible until residents get involved in the process. However, the study shows that local citizens who live in the woods are mainly indigenous people are more inclined to exploit the BR than to protect it. Besides that, the mechanism established by the legislation is quite difficult for them to comprehend. At the same moment, not even some residents are involved in the implementation process.<sup>26</sup> Most illicit bio-trading takes place only with the assistance of these residents. Apart from supporting the Forest Staff, they facilitate smugglers who steal BR from the forest. There are also occasions when residents have attacked the on-duty Forest Staffs who tried to stop the unlawful activity in the forests. Moreover, these local citizens only allow the intrusions of the forests.

#### *Lack of Documentation of BR species*

It was also found out in the Study that a great deal of exposure to exotic and endangered species of BR from the Forest Areas fails to grab the attention of the Forest Service as they are not adequately documented or identified as exotic and endangered species. These usually contain NTFP and are sold to scandalize markets outside of Assam. The Forest Department cannot limit local people's access to BR from forests as they rely on such BR and also have rights over the BR, but it is difficult to test if such BR is an uncommon species or not.<sup>27</sup>

#### *Lack of Value Assessment*

<sup>27</sup> Chandan Kumar Sarma & Indrani Sarma, Issues of Conservation and Livelihood in a Forest Village of Assam, 10, International Journal of Rural Management, 47 (2017)



It's been well-founded in the analysis that proper value evaluation is required for the sustainable commercialization of BR. Such a value determination should be rendered based on the supply and consumer demand of a given BR product. But, in Sonitpur Area, it is seen that there is a lack of proper value assessment of many species in the area, which contributes to a tremendous amount of destruction of certain species that could have been preserved if people knew the importance of these species.<sup>28</sup>

#### *Commercial Exploitation*

Often, timber that is known as the primary forest commodity is harvested from trees, resulting in a significant depletion of BD. However, currently the smuggling of medicinal plants, wild animals, including exotic and extinct plants, etc., which form NTFP, is also taking place.<sup>29</sup> One Forest Officer reported that pangolins were recovered from Mazgaon area, Sonitpur district in 2019.<sup>30</sup> Likewise, these offenses are so serious that many Forest workers were harmed or even killed by the culprit.

#### **CONCLUSION AND SUGGESTIONS**

However, the status of executing the ABS program has begun in the State of Assam but success is under satisfaction. It was also observed that the regulations governing these programs are filled with loopholes and are also unsuccessful in achieving their key goals of conservation, sustainable usage, and equitable sharing of benefits.

Therefore, it may be implied that, by way of modifications, more clarification is expected in the legal provisions. Although it is important to implement a comprehensive surveillance mechanism together with boosting the capabilities of the BD Authorities and Forest Departments, at the same time. The LCs must be granted some independence by providing them with access to such common property so that they can nourish those properties for the fulfilment of their subsistence needs rather than meeting the State's demand for economic development, which will encourage the infrastructure development of certain LCs by promoting their active involvement in the achievement of sustainable development.

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<sup>28</sup> Ratul Mahanta & Daisy Das, Attitudes Towards Biodiversity Conservation of Forests Dwellers and Encroachers: A Case Study of Assam in Northeast India, 12, Small Scale Forestry, 307 (2017)

<sup>29</sup> Hriday Ch. Sarma, Why Assam urgently needs an integrated forest policy?, The Himalayan, [https://medium.com/the-himalayan/why-assam-](https://medium.com/the-himalayan/why-assam-urgently-needs-an-integrated-forest-policy-706062bd0bc9)

[urgently-needs-an-integrated-forest-policy-706062bd0bc9](https://medium.com/the-himalayan/why-assam-urgently-needs-an-integrated-forest-policy-706062bd0bc9) (Nov 19, 2019 12.30 pm)

<sup>30</sup> Assam: Pangolin seized, accused taken into custody, Business Standard, [https://www.business-standard.com/article/news-ani/assam-pangolin-seized-accused-taken-into-custody-119122900841\\_1.html](https://www.business-standard.com/article/news-ani/assam-pangolin-seized-accused-taken-into-custody-119122900841_1.html) (Dec 29, 2019)