

FINAL REPORT

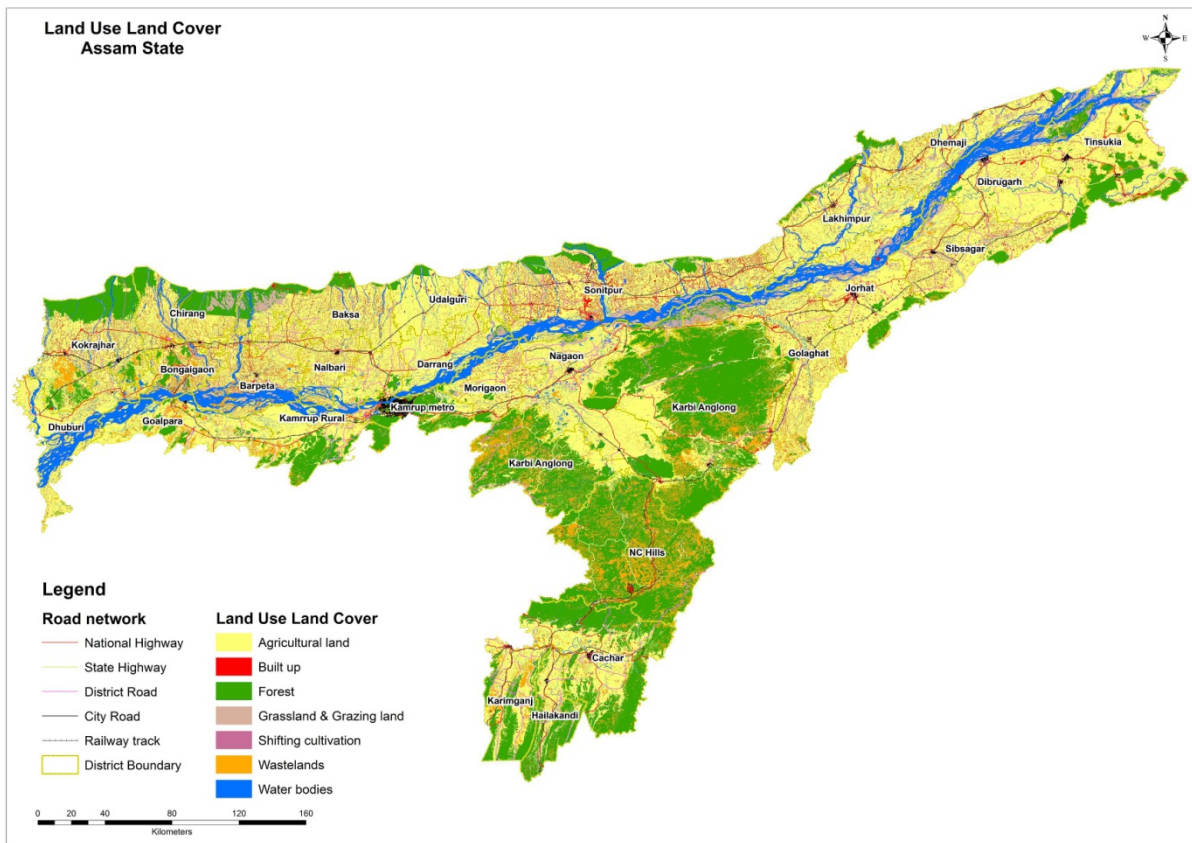
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**Committee for Protection of Land Rights
of Indigenous People of Assam**

Dated : 30th December,2017



*“When there was neither kingdom, nor king;
there was neither governance, nor governor,
the people protected themselves by dharma”*

-Mahabharata, XII.59.14

Preface

“Craft must have clothes, but truth loves to go naked”.

-T. Fuller

- 1. The Committee is happy to present its Report on protection of **land rights of the indigenous people of Assam**, ten months after it was constituted with a mandate to suggest, if any changes or modifications in the existing land laws and the rules made there under were necessary. The Committee has no hesitation to say that the subject was vast, the time short and our knowledge, if anything, limited. It was, therefore, a daunting task which the Committee had accepted in deference to the mandate given by the new Government to serve a cause of so crucial importance as protecting the land rights of the indigenous people of Assam which in truth is linked to protecting the very identity of the colourful pristine people of the land we all live in. The committee hardly needs to emphasize that in traversing the long way it did, it had essentially encountered crowd of obstacles and challenges which the Committee had overcome with a rather missionary zeal. And yet, it cannot claim that what has been presented is free from flaws, inaccuracies and inconsistencies. Our consolation is that to err is human.*
- 2. It has to be inexorably realized by all, particularly by those wielding the reins of Governance, that the pristine people of this beautiful land called Assam have reached a turning point in history at which they shockingly discover that they are faced with a crisis of their identity. This crisis stems from the perennial infiltration and organized encroachment of their lands by ceaseless swarms of a land-hungry people from across the Indo-Bangladesh Borders. This has now degenerated in to a perennial malady that needs to be attacked and treated at its root. Keeping this shocking truth in mind, the Committee has been absolutely forthright in saying what it should, has nourished no hesitation to call a spade a spade and explode the truth without fear or favour for, or bias against, any one.*
- 3. Realizing that the task mandated to the Committee was vast and sensitive in nature, and needed a single-minded insight in order to sustain uniformity, coherence and continuity of*

facts and perception, the Committee consciously decided that it would produce better result and make the task facile if the task of drafting the Report was exclusively entrusted to one of our members and eventually adopt it with such modifications as were considered necessary by the Committee. Accordingly, Dr. Rohini Kumar Baruah who had an administrative background and some insight in to land and revenue was entrusted with this task. Dr. Baruah accepted the suggestion and did his job under guidance of the Committee. The Draft Report having been completed eventually, the Committee adopted it with such additions, alterations and modifications as were considered necessary, to make it presentable to the Government.

- 4. In completing this stupendous task, while the continuous absence of the Member Secretary had left the Committee in the lurch, there were several serving and retired government officers with proficiency on the subject who had extended their un-reserved co-operation and suggestions. The Committee expresses its thanks and heart-felt gratitude to them, particularly to Sri Ashok Kumar Barman, ACS, Deputy Commissioner, Darrang and Sri Mohan Malakar, IFS (Retd.), Principal Chief Conservator of Forest (Wild Life) and Former Chief Information Commissioner, Assam. The Committee also hereby expresses its happiness that the officer and staff who formed its indispensable part had extended their ungrudging help and co-operation. We have no hesitation to name Sri Dhiraj Saud, ACS, Deputy Secretary of the Revenue Department, Sri Gautam Das, Sri Bhaskar Kalita, Sri Bhupen Kalita and Sri Nitai Roy who remained with us in all hours of need. While Shi Dhiraj Saud who in spite of pressing pre-occupation with his normal duties had made his services available in all hours of need and guided the Committee in important matters, the other staff members had served the Committee ungrudgingly and with a sense of devotion. But for their sincere help, the Committee would not have been able to complete the onerous task that it was entrusted with.*
- 5. We are also thankful to the Government of Assam, particularly, the Hon'ble Chief Minister of Assam, Sri Sarbananda Sonowal for reposing confidence in the Committee and giving it a chance to serve so important a cause of the indigenous people as protecting their land rights and virtually, their indigenous identity.*

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Chapter-1

*“Breathes there a man with soul so dead,
Who never to himself hath said,
This is my own, my native land?”*

- Scott

Introduction : The Background Scenario

1.1. Land-Foundation of Life and an Index of Identity: Land, the most treasured gift of nature serves the needs of the human race and all living creatures. During lifetime, land becomes the most critical and unique resources for sustaining life. Possession of land also provides one with cherished attributes of social status, respectability and identity. However, ungrateful homo-sapiens has ignored and failed to understand the implicit command of Mother Nature enshrined in her unwritten Gift Deed that to preserve her sanctity and purity, everyone living on her bountiful bosom must make its judicious use. Unfortunately the present human generations have successively failed to realize, much less acknowledge, that the earth actually belongs to the future generations and that we have only borrowed this munificent earth from the future generations.

1.2. And we have only one Mother Earth with her unalterably fixed surface. Inherent in this basic feature of Mother earth is a precarious imbalance in the equation between needs of the human race for living space and availability of the land surface – a phenomenon, diametrically opposite to each other-in that while the peripheries of the earth surface are un-alterably fixed, the size of the human race is ever-expanding and that too, in geometrical progression. This has inevitably given rise to cracking pressure on land and insatiable scramble for a living space, causing thereby tension at individual and national levels-a phenomenon which has led even to fight destructive wars between nations.

1.3. Characteristic Features of Assam’s Economy: Assam has a total surface area of 78,438 sq Km comprised in 33 Districts, 80 Sub-Divisions, 184 Revenue Circles and 26,395 villages. Her total population (Census Report, 2011) is 3,12,05576 of which 86 % comprise rural population, while the remaining 14% only comprise urban population. Thus, while Assam’s is basically an agrarian economy, its contribution to the State Domestic Product (SDP) is relatively insignificant with just 19.89% in 2011-12. With absence of irrigational facilities, power connectivity, organized markets, easy bank loans, cold storage facilities, high incidence of flood, siltation and erosion, preponderance of uneconomic holdings and marginal farmers with consequent low productivity of land, the indigenous people of Assam are threatened in the not too distant a future, to be reduced to a class of unemployed, indolent people divorced from land and agriculture, their ancestral profession, unless adequate and appropriate mitigating steps are adopted urgently for uplifting agriculture to be a sustainable profession of the rural population by improving per capita agricultural income and thus protect their land rights.

1.3.1. Adverse Land –Population Ratio Syndrome and Fallouts: A crucial area of concern that needs to be realized by the planners and administrators of the state is that while the population of

Assam is growing at the rate of 17.07 per cent (2001-2011) and at disastrously higher rates in the Char and other immigrant dominated districts, as the tables depicted below will show, the per capita availability of land is fast receding. Assam's density of population has increased to 398 persons in 2011 from 340 persons in 2001 Census, that is to say, 58 persons more per Sq Km as compared to a decade Ago. With the growth of this population, extension of the urban areas and increased developmental activities in the non-agricultural sectors, the availability of land, particularly of the cultivable land, has become more critical. The number of landless agriculturists including agricultural workers is also increasing. And, when it is viewed from the angle of optimal use of the agricultural / cultivable land, the situation has become even more precarious. Another crucial area that warrants inescapable attention is the fact that out of the total geographical area of 78, 523.08 Sq Kms of the State, 15,222Sq kms forming about 19.38 per cent of the total area is included in the two autonomous districts of Karbi Anglong (the largest district of Assam) and Dima Hasao, where not only the population is sparse but also the use of land, characterized by the traditional Jhum cultivation, falls far below the optimal level. This essentially reflects a hidden increased pressure on lands of the plain districts when viewed from the angle of the overall optimal use of land of the state. That the land scarcity of Assam is more acute than that of India is established by the fact that while Assam shares about 2.4 percent of the total geographical area of the country, it provides shelter to 2.6 per cent of the country's population. And further, when the disaster caused by the rituals of cruel annual flood, erosion and siltation of agricultural land is taken in to account, then it becomes abundantly clear that the index of per capita availability of both homestead and cultivable land, and particularly the latter, is disastrously sliding down, making scarcity of cultivable land more precarious. And while under the harsh impact of uneconomic holdings and associated poverty, the inclination of the indigenous marginal farmers is towards sale of their land to the non-agriculturist non-indigenous trading class of people who are ever ready to buy land as their most attractive destination of profit making investments, the indigenous peoples' right over land receive a crushing blow.

1.3.2. Preponderance of Marginal Farmers of Assam and Rural Poverty: With the preponderance of the rural population as also the high percentage of marginal farmers, the number of total BPL population in the State as a whole is understandably high (approx. 32%). Worse, the percentage of BPL population in the rural areas constitutes even a higher percentage (33.89%). As against this a negative growth of industry, if there is any growth at all, has pushed the percentage of unemployed youths to be precipitated. This grim economic situation explains as to why the incidence of land transfer from agriculturists to non-agriculturist class of people, more particularly, to non-indigenous/non-agriculturist class of people, has become increasingly higher. Another reason which has rendered agriculture a less attractive profession for the rural population is the high frequency of flood, erosion and siltation of the crop lands which have become so less productive that an average farmer is not in a position to defray his cost of production, let alone children's studies, treatment of ailments of the family and meet the children's educational expenses. In this hostile environment, it is not unusual that agriculture as a profession of the indigenous rural population is threatened with being an abandoned sector in not too distant a future.

1.3.3.. Low Percentage of Net Sown Area and Absence of Multiple Cropping Practice as a Pressure Factor on Land: It will be also noted that the ratio/ percentage of net sown areas to the total surface area as also the areas under double/multiple cropping are significantly low compared to the population growth which has caused unprecedented scramble for land. This also explains as to why incessant encroachments on all classes of land and increasing pressure on the cultivable land,

particularly in the face of high incidence of population growth mainly in the immigrant-dominated areas, have become a normal occurrence. The disequilibrium between the supply of and demand for can be partially remedied by increasing the ratio of cultivation in both these respects.

1.3.4. Serious threats to the land right of the indigenous people of Assam and their very identity:

But by far the most serious threats to the security of the land rights and the very identity of the indigenous people of Assam has come from the sustained immigration of Bengali Muslim peasants in to mainland Assam from the neighbouring districts of pre-independent Assam/erstwhile East Pakistan and now Bangladesh. Admittedly, it is not a new phenomenon. It has been going on since pre-independence days. History is replete with instances of surging migration of these Bengali Muslim peasants particularly since 1905 when Bengal was partitioned by Lord Curzon into two Bengals- namely, East Bengal and West Bengal, and Assam was tagged with East Bengal to form a new Province called 'East Bengal and Assam'- with Assam's capital shifted to Dacca. Migration from the adjoining districts of Mymensingh, Sylhet, Rangpur etc, with explosive growth of population and relative scarcity of agricultural land at their home land, had become a kind of compelling necessity for these hard working poor peasants to immigrate into Assam. In fact, aided and induced by the then Muslim League leaders, particularly Sir Sayed Mahammed Sadullah who formed five Governments in Assam between 1937 and 1947, the land-hungry, Muslim peasants rushed to mainland Assam where they could easily find fertile land ready and get settled. During this period, large scale migration of the Muslim peasants to the lower Assam districts was a regular feature. Sir Sayed Mahammad Sadullah devised a Scheme called 'Grow More Food Campaign' under cover of which thousands of Bengali Muslim peasants were unleashed to be spread in the Lower Assam districts like the invading swarms of ants.

1.4. Cautions and Concerns Expressed by Persons in Authority: The aggressive land grabbing by these land hungry immigrant peasants had assumed so alarming a proportion that it provoked Mr. S.C. Mullan, ICS, the then Census Superintendent of Assam to write in his Census Report of 1931 thus:

"Probably the most important event in the province during the last twenty five years - an event, moreover, which seems likely to alter permanently the whole future of Assam and to destroy more surely than did the Burmese invaders of 1829, the whole structure of Assamese culture and civilization - has been the invasion of a vast horde of land hungry Bengali immigrants; mostly Muslims, from the districts of Eastern Bengal sometime before 1911 and the census report of that is the first report which makes mention of the advancing host. But, as we now know, the Bengali, immigrants censused for the first time on their char islands of Goalpara in 1921 were merely the advance guard - or rather the scouts - of a huge army following closely at their heels. By 1921 the first army corps had passed into Assam and had practically conquered the district of Goalpara. Where there is waste land thither flock the Mymensinghians. In fact, the way in which they have seized upon the vacant areas in the Assam valley seems almost uncanny. Without fuss, without tumult, without undue trouble to the district revenue staffs, a population which must amount to over half a million has transplanted itself from Bengal into the Assam Valley during the last twenty-five years. It looks like a marvel of administrative organization on the part of Government but it is nothing of the sort; the only thing I can compare it to is the mass movement of large body of ants... it is sad but by no means improbable that in another thirty years

Sivasagar district will be the only part of Assam in which an Assamese will find himself at home".

1.5. Observations of Shri S.L. Shakhder, Former Chief Election Commissioner of India: The basis for the anti-immigrant bias had been set by Sham Lal Shakhder, the then Chief Election Commissioner of India who told a conference of Election Commissioners across India in 1978 that he was alarmed by reports especially from the North East that foreigners were being included in the electoral rolls. Mr. S.L. Shakhder commented that –

"In one State (Assam), the population in 1971 recorded an increase as high as 34.98 percent over the 1961 figures and this increase was attributed to the influx of a very large number of persons from the neighbouring countries. The influx has become a regular feature. I think it may not be a wrong assessment to make, on the basis of the increase of 34.98 percent between the two censuses, the increase that is likely to be recorded in 1991 census would be more than 100 per cent over the 1961 census. In other words, a stage would be reached when the state would have to reckon with the foreign nationals who may probably constitute a sizeable percentage, if not the majority of the population, of the state."

1.6. Memorandum of Lt. Gen. (Retd.) Shri S.K. Sinha, the then Governor of Assam to the President of India: Lt. Gen. (Retd.) Shri S.K. Sinha, the then Governor of Assam in a report on illegal migration of Assam submitted to the President of India on 8th November, 1998 mentioned that the unabated influx of illegal migrants from Bangladesh into Assam and the consequent perceptible change in the demographic pattern of the State has been a matter of grave concern which threatened to reduce the Assamese people to a minority in their own State, as happened in Tripura and Sikkim. He further stated that the Bangladeshi illegal migrants posed a much greater threat in Assam than any other State and if the infiltration was not effectively checked, the infiltrators might swamp the Assamese people and might sever the North East landmass from the rest of India. Some of his observations/comments are as follows:

- a. Bangladesh census records indicate a reduction of 39 lakh Hindus between 1971 and 1981 and another 36 lakh between 1981 and 1989. These 75 lakh (39+36) Hindus have been obviously coming to India.
- b. In 1970, the total population of East Pakistan was 7.5 crores, but in 1974 it had come down to 7.14 crores. On the basis of 3.1 % annual population growth rate of that period, the population of 1974 should have been 7.7 crores. The short fall of 6 million people can be explained by large scale migration.
- c. Muslim population of Assam has shown a rise of 77.42% in 1991 from what it was in 1971. Hindu population has risen by nearly 41.89% in this period.
- d. Muslim population of Assam has risen from 24.68% in 1951 to 28.42 % in 1991.
- e. The much higher percentage of growth of Assam from 1911 to 1971 over the all India and Bangladesh figures indicate migration into Assam."

1.7. Observations of Mr. E.H. Pakyntein, the then Superintendent of Census, Assam: *E.H. Pakyntein, Superintendent of Census Operations for Assam, 1961, noted that*

"From 1901 onwards, the men of Mymensingh began to advance to Assam, driven apparently by pressure on the soil at home. They were joined by a people of other East Bengal (now Bangladesh) districts in less numbers."

The increase of population in the State was caused by three main factors namely, (1) natural growth of the existing population, (2) large expansion of tea industry and consequent import of huge number of tea garden labourers in to the State and (3) the immigration from East Bengal (now Bangladesh) and Nepal.

1.8. Reasons for Shrinking Geographical Stretch and Cultivable Land of Assam: The geographical stretch of Assam is continuously shrinking due to operation of very many factors, both natural and human, such as (i) political division of Assam, (ii) unabated erosion by the river Brahmaputra characterized by its changing courses and consuming thousands of residential villages, home and hearths of the affected people and washing out their crops and cattle. The annual flood and erosion creates new char area and also demolishes existing char areas. The char areas are temporary creation of alluvion and diluvion, (iii) siltation of agricultural lands due to annual rituals of flood causes substantial loss of cultivable land, (iv) massive encroachment of huge stretch of land by the neighbouring States of Nagaland, Meghalaya, Arunachal and Mizoram and (v) unabated, organized and incessant encroachments of all kinds of land by land hungry immigrants from across the Indo-Bangladesh international borders. The lands encroached include agricultural land, char areas, various reserves including Village Grazing Reserves (VGR), Professional Grazing Reserves (PGR), Satra and Temple etc. land (Debottar, Dharmottar and Brahmottar lands), Tribal Belt/Block land, Government vacant waste/khas land, road and riverside reserved land.

1.8.1. Open Indo-Bangladesh Border, Unrestricted Infiltration and Encroachment on Char and Other Lands of adjoining districts: The most serious threats to the land rights of the indigenous people of Assam, more precisely to the very identity of the indigenous people of Assam, comes from the unabated mass infiltration from the land mass now comprised in Bangladesh through the wide open Indo-Bangladesh International border vs Assam, Meghalaya, Tripura and Mizoram. The fact is that a predominant majority of people of doubtful origin occupied the vast char areas with their explosive growth rate of population. There are a few other districts like Barpeta, Bongaigaon, Darrang, Dhubri, Goalpara, Hailakandi, Karimganj, Morigaon and Nagaon which are also most seriously affected and have contributed largely to changing the demographic pattern of Assam. In this background, the land rights of the indigenous people as also their identity are at stake. The conclusion is obvious that in case no effective Constitutional, legal and administrative steps including sealing off of the Indo-Bangladesh border and detection and deportation of the illegal immigrants are taken, the indigenous people are bound to be reduced to a landless class of people and to become foreigners at their own home.

1.9. Graphic Depiction of the Decadal Population Growth of Assam and India : It will be seen from the table given below that the population growth rates of Assam have consistently been higher than those of India as a whole since 1901 up to 2011. Further, the index of the density of population of Assam has been consistently higher than that of India since 1971 up to 2011 except that of 1981 which was at level (230:230) as this figure was not based on the decadal Census but was only interpolated. What must be remembered is that the relatively lower population density of Assam prior to 1971 compared to India had later not only caught up with but excelled those of Indian average density. The higher density of Assam's population can be attributed to higher growth rate of the Muslim population, particularly in the immigrant- dominated districts. Tables 1, 2 and 3 below respectively show the

population trends in Assam and India, religion wise population growth as per Census Report of 2011 and the Districts with religion wise majority of population.

Table- 1.1

POPULATION TREND IN ASSAM AND INDIA

Year	Population (in lakh)		Percentage Decadal Variation		Density (Person per Sq. Km.)	
	ASSAM	INDIA	ASSAM	INDIA	ASSAM	INDIA
1901	33	2384	-	-	42	77
1911	38	2521	17.0	5.8	49	82
1921	46	2513	20.5	0.3	59	81
1931	56	2789	19.9	11.0	71	90
1941	67	3186	20.4	14.2	85	103
1951	80	3611	19.9	13.3	102	117
1961	108	4392	35.0	21.5	138	142
1971	146	5481	35.0	24.8	186	177
1981	*180	6833	*23.4	24.7	*230	230
1991	224	8463	24.2	23.9	286	267
2001	266	10270	18.9	21.5	340	325
2011	312	12106	17.1	17.7	398	368

**Interpolated.*

Source: Census of India 2011

Table-1.2

Religion wise population highlights as per Census Report 2011

District	Majority Religion	Hindu	Muslim	Christian	Sikh	Buddhist	Jain	Other Religions	Not Stated
Baksa	Hindu	82.40%	14.29%	2.85%	0.02%	0.13%	0.03%	0.04%	0.25%
Barpeta	Muslim	29.11%	70.74%	0.06%	0.01%	0.00%	0.02%	0.00%	0.06%
Bongaigaon	Muslim	48.61%	50.22%	0.80%	0.05%	0.03%	0.12%	0.00%	0.16%
Cachar	Hindu	59.83%	37.71%	2.17%	0.02%	0.02%	0.10%	0.01%	0.16%
Chirang	Hindu	66.50%	22.66%	10.32%	0.02%	0.08%	0.03%	0.10%	0.29%
Darrang	Muslim	35.25%	64.34%	0.18%	0.05%	0.01%	0.08%	0.00%	0.09%
Dhemaji	Hindu	95.47%	1.96%	1.27%	0.04%	0.13%	0.02%	0.92%	0.18%
Dhubri	Muslim	19.92%	79.67%	0.21%	0.01%	0.01%	0.09%	0.00%	0.08%
Dibrugarh	Hindu	90.35%	4.86%	3.99%	0.17%	0.35%	0.08%	0.00%	0.18%
Dima Hasao	Hindu	67.07%	2.04%	29.57%	0.10%	0.32%	0.03%	0.55%	0.33%
Goalpara	Muslim	34.51%	57.52%	7.72%	0.08%	0.02%	0.05%	0.01%	0.10%
Golaghat	Hindu	85.99%	8.46%	4.74%	0.11%	0.36%	0.05%	0.13%	0.16%
Hailakandi	Muslim	38.10%	60.31%	1.29%	0.01%	0.07%	0.04%	0.10%	0.08%
Jorhat	Hindu	92.31%	5.01%	1.93%	0.14%	0.22%	0.07%	0.05%	0.28%
**Kamrup	Hindu	57.82%	39.66%	2.19%	0.02%	0.01%	0.09%	0.00%	0.20%
Kamrup (M)	Hindu	84.89%	12.05%	1.50%	0.29%	0.13%	0.74%	0.01%	0.39%
Karbi Anglong	Hindu	80.10%	2.12%	16.50%	0.04%	0.65%	0.04%	0.37%	0.17%
Karimganj	Muslim	42.48%	56.36%	0.98%	0.01%	0.04%	0.04%	0.01%	0.09%
Kokrajhar	Hindu	59.64%	28.44%	11.40%	0.01%	0.19%	0.04%	0.01%	0.27%
Lakhimpur	Hindu	76.49%	18.57%	4.43%	0.04%	0.10%	0.02%	0.23%	0.11%
Morigaon	Muslim	47.20%	52.56%	0.09%	0.01%	0.01%	0.03%	0.00%	0.11%
Nagaon	Muslim	43.39%	55.36%	0.95%	0.11%	0.04%	0.04%	0.00%	0.11%
Nalbari	Hindu	63.71%	35.96%	0.06%	0.01%	0.00%	0.13%	0.00%	0.13%
Sivasagar	Hindu	87.51%	8.30%	2.88%	0.08%	0.34%	0.02%	0.74%	0.12%
Sonitpur	Hindu	73.95%	18.22%	7.18%	0.07%	0.26%	0.05%	0.01%	0.26%
Tinsukia	Hindu	88.96%	3.64%	5.79%	0.15%	1.22%	0.06%	0.03%	0.14%
Udalguri	Hindu	73.64%	12.66%	13.25%	0.03%	0.20%	0.01%	0.03%	0.18%

** Kamrup (R) district

Table 3**Districts with Religion wise Majority of Population**

District	Majority Religion	Hindu	Muslim
<u>Barpeta</u>	Muslim	29.11%	70.74%
<u>Bongaigaon</u>	Muslim	48.61%	50.22%
<u>Darrang</u>	Muslim	35.25%	64.34%
<u>Dhubri</u>	Muslim	19.92%	79.67%
<u>Goalpara</u>	Muslim	34.51%	57.52%
<u>Hailakandi</u>	Muslim	38.10%	60.31%
<u>Karimganj</u>	Muslim	42.48%	56.36%
<u>Morigaon</u>	Muslim	47.20%	52.56%
<u>Nagaon</u>	Muslim	43.39%	55.36%
<u>Nalbari</u>	Hindu	63.71%	35.96%
<u>Cachar</u>	Hindu	59.83%	37.71%
<u>Kamrup</u>	Hindu	57.82%	39.66%

Note: The above table shows that the Muslim population has become majority in 9 districts while in the remaining 3 districts namely- Nalbari, Cachar and Kamrup, it forms a dominant percentage of the total population. In the mean time, two more new districts, namely- South Salmara and Hojai districts from out of the existing Dhubri and Nagaon districts respectively have been created thereby increasing the number of Muslim majority districts to 11. The Muslim population in the districts of Nalbari, Cachar and Kamrup forms a dominant percentage of the total population increasing the number of districts where the Muslim population forms either majority or a dominant section of the total population, to 14 districts. And with the next Census of 2021 fast advancing, it is not unlikely that another one or two marginal districts may follow the suit.

It will be clear from the table given below that the consistent higher growth of population in Assam can be ascribed to the higher growth rate of Muslim population:-

Table-1.4**(Comparative Religion wise Decadal Growth of Population In Assam and India (1951-1991))**

Year	Assam		India	
	Hindus	Muslim	Hindus	Muslims
1951-1961	33.71	38.35	20.29	25.61
1961-1971	37.17	30.99	23.72	20.85
1971-1991	41.89	77.42	48.38	55.04

Source : Census Report, 1991

It would also be abundantly clear from the statistics depicted in the above tables that the growth rate of the Muslim population has been consistently far above the overall growth rate of population both at the National and the State levels. The explosive growth rate of population in the immigrant Muslim-dominated districts/areas is attributed to their low literacy percentage, degraded economic status and religious belief in polygamy.

1.10. Agitation on Foreign National Issue and Enactment of IM (DT) Act, 1983: During post independence era, the infiltration from the present Bangladesh continued and aggravated to such an extent that the All Assam Student Union (AASU) had to launch a very powerful 6 year long movement called Assam Agitation on Foreign Nationals' Issue which continued from 1979 to 1985. It was a mass movement supported by all sections of the indigenous people and organizations of Assam including tea garden workers, teachers associations, the state government employees, Assam Xahitya Xabha etc. This record breaking six year long agitation was launched under the aegis of the All Assam Student Union (AASU) and All Assam Gana Sangram Parisad (AGSP). Then in 1983 when the agitation was at its zenith, a strange Act called The Illegal Migrants (Determination by Tribunal) (IMDT) Act, 1983 was passed in the Parliament in the name of detecting and deporting the illegal immigrants from Bangladesh. Actually, this legislation was enacted in the Parliament at the behest of the then State Government of Assam when the indigenous people of Assam had boycotted *en masse* the election of 1983 held with lakhs of foreigners' name in the electoral rolls of Assam and there was no true representative of Assam elected by the indigenous people. This legislation was enacted behind the back of the indigenous people of Assam with a motive, as observed by the Hon'ble Supreme Court of India vide its judgment and order date 12 July, 2005, of protecting and sheltering the millions of illegal foreigners coming after 25 March, 1971. The Constitutional validity of this Act was challenged in the Hon'ble Supreme Court of India in the Writ Petition (C) No. 131 of 2000, Sarbananda Sonowal –vs- Union of India [**Reported in (2005) 5 SCC 665**]. By the judgment and order dated 12th July'2005 delivered in the said case, the Hon'ble Supreme Court held the Act to be *ultra vires* the Constitution of India and invalid. The following paragraphs of the judgment will explain the situation:

“51. The foremost duty of the Central Government is to defend the borders of the country, prevent any trespass and make the life of the citizens safe and secure. The Government has also a duty to prevent any internal disturbance and maintain law and order. Kautilya in his masterly work ‘The Arthashastra’ has said that a king had two responsibilities to his State, one internal and one external, for which he needed an army. One of the main responsibilities was raksha or protection of the State from external aggression. The defence of the realm, a constant preoccupation for the king, consisted not only of the physical defence of the kingdom but also the prevention of treachery, revolts and rebellion. The physical defensive measures were the frontier posts to prevent the entry of undesirable aliens and forts in various parts of the country. (Arthashastra by Kautilya - translated by Shri L.N. Rangarajan, who was in Indian Foreign Service and ambassador of India in several countries — published by Penguin Books. 1992 Edn., p.676.) The very first entry, namely, Entry 1 of List I of the Seventh Schedule is:

“1. Defence of India and every part thereof including preparation for

defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation."

In fact Entries 1 to 4 of List I of Seventh Schedule mainly deal with armed forces. Article 355 of the Constitution of India reads as under:

"355. Duty of the Union to protect States against external aggression and internal disturbance.— It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the Government of every State is carried on in accordance with the provisions of this Constitution."

52. *The word "aggression" is a word of very wide import. Various meanings to the word have been given in the dictionaries, like, "an assault, an inroad, the practice of setting upon anyone; an offensive action or procedure; the practice of making attacks or encroachments; the action of a nation in violating the rights especially the territorial rights of another nation; overt destruction; covert hostile attitudes".*

53. *The word "aggression" is not to be confused only with "war". Though war would be included within the ambit and scope of the word "aggression" but it comprises many other acts which cannot be termed as war. In Kawasaki v. Bantham S.S. Co.¹¹ the following definition of "war" as given in Hall on International Law has been quoted (All ER p. 82 D) with approval:*

"When differences between States reach a point at which both parties resort to force, or one of them does acts of violence, which the other chooses to look upon as a breach of the peace, the relation of war is set up, in which the combatants may use regulated violence against each other, until one of the two has been brought to accept such terms as his enemy is willing to grant."

54. *In Introduction to International Law by J.G. Starke (Chapter 18) it is said that war in its most generally understood sense is a contest between two or more States primarily through their armed forces, the ultimate purpose of each contestant or each contestant group being to vanquish the other or others and impose its own conditions of peace. With the passage of time, the nature of war itself has become more distinctly clarified as a formal status of armed hostility, in which the intention of the parties, the so-called animus belligerendi may be a decisive factor. The modern war may involve not merely the armed forces of belligerent States but their entire population. In Essays on Modern Law of War by L.C. Green, the author has said that in accordance with traditional international law. "War is a contention between two or more States through their armed forces, for the purpose of overpowering each other and*

imposing such conditions of peace as the victor pleases". The framers of the Constitution have consciously used the word "aggression" and not "war" in Article 355."

"63. This being the situation there can be no manner of doubt that the State of Assam is facing "external aggression and internal disturbance" on account of large-scale illegal migration of Bangladeshi nationals. It, therefore, becomes the duty of the Union of India to take all measures for protection of the State of Assam from such external aggression and internal disturbance as enjoined in Article 355 of the Constitution. Having regard to this constitutional mandate, the question arises whether the Union of India has taken any measures for that purpose."

"64.Thus, there cannot be even a slightest doubt that the application of the IMDT Act and the Rules made there under in the State of Assam has created the biggest hurdle and is the main impediment or barrier in identification and deportation of illegal migrants. On the contrary, it is coming to the advantage of such illegal migrants as any proceedings initiated against them under the said provision which, as demonstrated above, almost entirely ends in their favour, enables them to have a document having official sanctity to the effect that they are not illegal migrants. As already discussed, the presence of such a large number of illegal migrants from Bangladesh, which runs into millions, is in fact an "aggression" on the State of Assam and has also contributed significantly in causing serious "internal disturbances" in the shape of insurgency of alarming proportion making the life of the people of Assam wholly insecure and the panic generated thereby has created a fear psychosis. This has resulted in seriously hampering the growth of the State of Assam although it has vast natural resources as people from rest of the country have a general perception that it is a disturbed area and this factor has resulted in not generating any employment opportunity which has contributed to a large measure in giving rise to insurgency. The impact is such that it not only affects the State of Assam but it also affects its sister States like Arunachal Pradesh, Meghalaya, Nagaland etc. as the route to the said places passes through the State of Assam."

"70. As mentioned earlier, the influx of Bangladeshi nationals who have illegally migrated into Assam pose a threat to the integrity and security of North-Eastern region. Their presence has changed the demographic character of that region and the local people of Assam have been reduced to a status of minority in certain districts. In such circumstances, if Parliament had enacted a legislation exclusively for the State of Assam which was more stringent than the Foreigners Act, which is applicable to rest of India, and also in the State of Assam for identification of such persons who migrated from the territory of present Bangladesh between 1-1-1966 and 24-3-1971, such a legislation would have passed the test of Article 14 as the differentiation so made would have had rational nexus with the avowed policy and objective of the Act. But the

mere making of a geographical classification cannot be sustained where the Act instead of achieving the object of the legislation defeats the very purpose for which the legislation has been made. As discussed earlier, the provisions of the Foreigners Act are far more effective in identification and deportation of foreigners who have illegally crossed the international border and have entered India without any authority of law and have no authority to continue to remain in India. For satisfying the test of Article 14, the geographical factor alone in making a classification is not enough but there must be a nexus with the objects sought to be achieved. If geographical consideration becomes the sole criterion completely overlooking the other aspect of "rational nexus with the policy and object of the Act" it would be open to the legislature to apply enactments made by it to any sub-division or district within the State and leaving others at its sweet will. This is not the underlying spirit or the legal principle on which Article 14 is founded. Since the classification made whereby the IMDT Act is made applicable only to the State of Assam has no rational nexus with the policy and object of the Act, it is clearly violation of Article 14 of the Constitution and is liable to be struck down on this ground also."

1.11. Tardy Progress of Implementation of the Supreme Court's Direction: It is pertinent to note that the above judgment was delivered by the Hon'ble Supreme Court of India while considering the Constitutional validity of the IM (DT) Act, 1983. With the said Act scrapped, it is necessary that the direction of the Supreme Court to detect and deport the illegal migrants under the Foreigners' Act, 1946 as also to delete their names from the electoral rolls of Assam has to be fully implemented, if the land rights of the indigenous people of Assam have to be saved from aggressive encroachments by the foreigners. Already, the situation has reached a saturation point and deteriorated so much that one Mohammad Kamaluddin, son of Late Modorisin Ali, a Bangladeshi national was even to be elected as MLA in the State Legislature of Assam*. The Committee observes that not much progress has been made even after 12 years of the above direction for detection and deportation of the illegal migrants as also for deletion of their names from the electoral rolls of Assam.

Note : The Committee sincerely regrets that a typographical mistake has crept in the 2nd line, namely, **"It is also a fact that one Bangladeshi was even elected as MLA in the State Legislature of Assam."** of paragraph 10 (at Page 8) of the Interim Report submitted by the Committee to the Hon'ble Chief Minister, Assam on 20/07/2017. This sentence ought to have been typed as **"It is also a fact that one Bangladeshi was even to be elected as MLA in the State Legislature of Assam."** It is really very unfortunate that such a serious typographical mistake has escaped the notice of the Committee at the time of submitting the Interim Report. The Committee fully takes its responsibility for causing misgivings and embarrassment to the people of Assam by the aforesaid typographical mistake.

However, the Committee deems it necessary to bring to the notice of the people of Assam some important facts in connection with this matter. One Mohammad Kamaluddin, son of Late Modorisin Ali, a Bangladeshi national was arrested by Nagaon Border Police on 03/02/1998 while he was found strolling suspiciously in the Nagaon Town. On being arrested, he had candidly admitted before Nagaon Police that he hails from the village Chengram, Police Station Barlekha in the District of Moulavi Bazar,

Bangladesh. He procured the Passport No. 0-822363 from Government of Pakistan through illegal means. Thereafter, he entered India (Assam) under Murajahar Police Station in the District of Nagaon without reporting his arrival before the District Authorities, with the help of the said Passport issued by the Government of Pakistan. He travelled from Karachi to Dhaka by Pakistan International Flight on 07/11/1994. The Nagaon Police happened to seize his boarding pass, passenger ticket and baggage check along with some foreign exchange and visa obtained by him. He was of course deported to his country on 03/02/1998; on the very date of his arrest via Mohishesan PPCP vide Exit No. 41/98 dated 03/02/1998. It is relevant to point out that after such deportation, he again entered India illegally. He had even contested Legislative Assembly Election of Assam in 1996 from 90 Jamunakukh Legislative Assembly Constituency, though unsuccessfully. Thereafter, he filed a Writ Petition before the Hon'ble Gauhati High Court against his deportation. The said Writ Petition was registered and numbered as Civil Rule No. 2501 of 1998. The Hon'ble Gauhati High Court dismissed the aforesaid Writ Petition [reported in 2000(2) GLT 79], by the judgment and order dated 27/01/2000, holding as follows:-

"4 From these documents it is crystal clear that the Petitioner is a foreign National and he had a passport. He came to India stealthily. So the claim that he is an Indian citizen is incorrect and he has been rightly arrested by the authority. So he can be deported by the authority."

"6. Before parting with the record, I only express my displeasure and annoyance with regard to the causal and cavalier manner in which voters' list is prepared/ made in Assam. On the basis of such incorrect Voters' list a person was allowed even to contest the Election. Send a copy of the judgment to the Deputy Commissioner, and the Superintendent of Police, Nowgong to do the needful."

1.12. Unabated Encroachments of Inter-State Border Areas by the Neighbouring States of Assam : Assam has long and indeterminate borders with Nagaland, Meghalaya, and Mizoram, the erstwhile districts of Assam, as also with Arunachal Pradesh, formerly under the administrative control of the Governor of Assam. All of them have disputed their boundaries with Assam either because the original boundaries were not well marked or so they claimed or they had shown reasons to dispute the accuracy of the boundaries so marked. Consequently, disturbing boundary disputes between Assam on the one hand and these neighbouring States on the other exist leading to terrorizing, harassment, extortion and insecurity of the residents on the Assam side of the borders and creating highly volatile law and order situation to the State Government of Assam. Having regard to the sensitive nature of the problem, we have discussed it at some length in Chapter 8.

1.13. Land Transfer from Indigenous Cultivators to Non-Indigenous/Non-Cultivator Trading Class- A Threat Syndrome: There is another ominous development which has caused agricultural land to be transferred from the poor indigenous farmers of Assam to the rich non-indigenous, non-agriculturist trading community who has of late taken to making huge speculative investments on land, and taking advantage of the legal loopholes, and/or aided by a section of the corrupt revenue officials, have made such transfer a smooth sailing. There are reported to be cases where even the suspected foreigners who first work as agricultural labourers in the crop fields of indigenous people and then cultivate the same land as co-sharers of crops, later purchase the land. Curiously, whether the

agricultural land is purchased by the non-indigenous non-cultivator Indian citizens or by suspected foreigners, the registration and transfer of such land, take place without any fuss or qualms. This has led to facile transfer of huge blocks of cultivable land both in rural and town areas, particularly rural areas which have been subsequently included in town areas. In the rural areas, the people who are helplessly inclined and most adversely affected by this trend include the poor and marginal farmers while, in the town areas, particularly in the extended town areas including those of the city of Guwahati, the indigenous land sellers to non-indigenous persons include those who are needy people. Be that as it may, the fact remains that there has emerged an unmistakable trend in transfer of land from the indigenous people of Assam to the non-indigenous people who constitute trading and industrial community of Assam. Obviously this undesirable trend needs to be stopped.

1.14. Protection of Indigenous Peoples' land rights is Linked to Solution of the Foreigners' Issue of Assam/ Implementation of the Assam Accord, 1985: At the moment, the gravest threat perceptions of the indigenous people of Assam to the safety and security of their land rights and, in fact, of their very identity comes from the surging unchecked infiltration from across the Bangladesh borders. Protection of land rights of the indigenous people of Assam is, in fact, inextricably linked to protection of their identity and the solution of the problem of foreign nationals' issue gripping Assam over the last seven decades of independence. **The Committee feels and recommends that protection of land right of the indigenous people of Assam pre-envisages implementation of the Assam Accord, 1985, that is, (i) sealing off the Indo-Bangladesh international borders via Assam, Meghalaya, Tripura and Mizoram for checking fresh arrivals of illegal immigrants as also for (ii) detection and deportation of the existing foreign nationals by signing a Repatriation Treaty with Bangladesh Government and further, (iv) for correction of the voters' Lists by deleting the names of the foreigners. In other words, full implementation of the Assam Accord has inescapably to be put on the priority card.**

1.15. Enforcement of Land Laws and Agricultural Reforms Measures - A Key Factor to Arrest this Undesirable Trend: Land is such a scarce and treasured gift of nature that once it slips from the hand of its holder, chances of its coming back are almost nil. And if this unilateral trend of land transfer from the indigenous cultivators land holders to non-indigenous non-agriculturists class of people is not effectively arrested urgently, there is bound to come a time when the indigenous people will be reduced to a landless class of people losing their pristine identity and becoming foreigners in their own home. A set of ameliorative schemes to fight this evil need to be implemented.

1.16. Recommendations: (i) To supplement the meager agricultural income, reduce the rural poverty and thus arrest the trend to mitigate their dearth of cash inflow, a powerful State-wide Mass Awareness Revolutionary Movement at the grass root level to shun indolence, job culture aversion to hard labour and to inculcate the sense of self-employment, dignity of labour should be launched under the aegis of the concerned Government department(s) by opening an Awareness Wing with appropriate budgetary allocations and manned by trained personnel.

(ii) Overall reforms of agriculture such as mechanization/ tractorisation of agriculture, co-operative farming/ Group farming, consolidation of holdings and community cultivation, increased irrigational facilities supported by power connectivity, switching over to double/multiple cropping, supply of high yielding certified seeds supported by a policy of government procurement, bank finance, state subsidy, crop insurance and above all, organized Mandis/ Markets at strategic centres should be introduced.

(iii) Horticultural sector should be lifted to be a priority sector of agriculture

(iv) The legal loopholes wherever they exist should be plugged but even of greater importance is the fact that the laws must be enforced strictly to execute schemes of reforms. Where necessary new law should be introduced

(v) The organizational structure of the Agriculture Department should be remodelled. The question of merging the departments of agriculture and irrigation should be also examined.

(vi) Determination of the Inter-State boundaries and implementation of certain development schemes along the border areas shall ease the volatile situation.

(vii) Finally, sale of agricultural land to non-agriculturist/non-indigenous persons should be restricted by law.

1.17. A Positive Step of the Government of Assam: On realizing the seriousness of the unabated encroachment of Government/Community Lands and the need for taking effective measures to counter the menace looming large, the State Government felt the urgency of protecting the lands of indigenous people of Assam which triggered the constitution of this committee. The Government of Assam in the Budget Session announced the formation of the Committee on Protection of Land Rights of Indigenous People of Assam on 6th February, 2017. The Government of Assam vide its Notification No. RSS.52/2017/1 dated 06/02/2017 constituted a 7 (Seven) Member Committee including the Chairman, with specific Terms of Reference (TOR), under the Chairmanship of Sri Hari Shankar Brahma, IAS (Retired), former Chief Election Commissioner of India, to examine the various aspects of administration of land including the protection of land rights of the indigenous people of Assam. The Notification dated 06/02/2017 is quoted herein below:

“Orders by the Governor of Assam”

NOTIFICATION

Dated Dispur, the 6th February, 2017

No. RSS.52/2017/1: The Governor of Assam is pleased to constitute a Committee with the following members for suggesting measures including modifications in ALRR-1886, other land laws, Government Circular & Land Policy for ensuring protection of land rights of indigenous people in the State of Assam:

1. Sri Hari Shankar Brahma, IAS (Retd.), Former Chief Election Commissioner, Government of India.	Chairman
1. Dr. Rohini Kumar Baruah, IAS (Retd.)	Member
2. Dr. Romesh Borpatragohain, Prof. Department of Law, Gauhati University	Member
3. Sri Anil Kumar Bhattacharyya, Senior Advocate	Member
4. Sri Srikumar Dohutia, Historian, Tinsukia	Member
5. Sri Ajoy Kumar Dutta, Social Worker, Guwahati	Member
7. Sri Rajesh Prasad, IAS	Member-

Commissioner & Secretary,
Revenue & D.M. Department
Government of Assam

Secretary

The Committee will submit report within three months.

The Revenue and D.M. Department will provide all necessary assistance to the Committee.”

1.14. Subsequently, however, the Government of Assam vide its Notification No. RSS.52/2017/60 dated 05/06/2017 had appointed Sri Manoj Kumar, IAS, Director of Land Records (DLR) as Member-Secretary in place of Sri Rajesh Prasad, IAS, Commissioner and Secretary, Government of Assam and DM Department. By the same Notification, Sri Santanu Bharali, Legal Advisor to the Hon'ble Chief Minister of Assam, has also been appointed as one of the Members to the Committee. The said Notification is quoted herein below:

“ Orders by the Governor of Assam”

NOTIFICATION

Dated Dispur, the 5th June, 2017

No. RSS.52/2017/60: The Governor of Assam is pleased to appoint Sri Manoj Kumar, IAS, DLR & S etc., Assam & Secretary to the Government of Assam, Revenue & D.M. Department as Member Secretary in place of Sri Rajesh Prasad, IAS, Commissioner and Secretary to the Government of Assam, Revenue and D.M. Department and Sri Santanu Bharali, Legal Advisor to the Hon'ble CM, Assam as Member to the Committee notified vide No. RSS/52/2017/1. Dated 06.02.2017 constituted for suggesting measures including modification in ALRR, 1886, other land laws, Government Circular and Land Policy for ensuring protection of land rights of indigenous people in the State of Assam under the Chairmanship of Sri H.S. Brahma, IAS (Retd.)

Chapter-2

*“ The woods are lovely, dark and deep,
But I have promises to keep,
And miles to go before I sleep”*

- Robert Frost

Describing the Committee’s Tasks, Strategy and Constraints

2.1 Constitution of the Committee for protection of land rights of the Indigenous people of Assam:

The Government of Assam’s decision to constitute a Committee for protection of land rights of the indigenous people of Assam soon after its assuming the reins of the State administration has been received as a welcome bonanza by all sections of the people of Assam, particularly by the indigenous section of the people. And understandably, this has generated high hopes in them that the land, which not only constitutes their chief means of livelihood, particularly of an overwhelming majority of the rural population but also heralds a symbol of social status and identity will be secured against the organized land grabbing and encroachment by the swarms of land hungry Bangladeshis. In tune with this objective, the Government of Assam (GOA) has mandated the Committee to recommend measures, for protecting the land rights of the indigenous people of Assam, as mentioned in Chapter 1. The fact that land is a very sensitive subject with high voltage socio-economic importance had made the Committee’s task to that extent more extracting. Be that as it may, the Committee took up the challenge in right earnest. However, it soon dawned on it that it would need almost super human efforts, having regard to the magnitude and highly technical nature of the task to submit its report within the time frame of three months. The Committee would need a minimum of two years. However, in deference to the exigency, particularly at the government level, the committee made its utmost endeavour to complete the task within the time frame eventually re-fixed. Naturally, in this pressure situation, the Committee does not claim that while preparing its Report, it could traverse and research in to all the issues, nor does it believe that its Report is perfect. Reasons are simple, firstly, no member is a specialist on the subject and secondly, haste and quality run parallel to each other.

2.2. Identifying the Magnitude of the Task Ahead :

The principal task of the Committee as mandated by the Government of Assam relates to and revolves round the central issue of protecting the land rights of the indigenous people of Assam and in that view, to suggest, changes in or modifications, if any, of the (i) existing Land Policy of 1989 (ii) Assam Land and Revenue Regulation, 1886 (ALRR), Rules made there under (iii) the Executive instructions issued under the regulation (iv) other land-related laws (v) Innumerable Government circulars issued from time to time. In other words, the modifications suggested in the new Land Policy as also in the Rules and orders issued there under from time to time should be such as will serve the cause of protecting their rights over their lands in the wake of the changed *socio-economic* context bolstered by a policy of rational distribution amongst and optimal use of land by the indigenous people of Assam, if only to ensure allocation of a just share of agricultural and homestead land to them.

2.3. Committees' Strategy to Reach its Goal: The Committee had prepared a busy work schedule which included (in addition to extensive and intensive study of various Laws, Rules and Circulars), visit to various districts and interaction with various Deputy Commissioners, individuals/organizations etc so as to gather firsthand knowledge at the grass root level and take realistic and practical views of the various problems. In this view, extension of the time frame at least up to two years was a minimum necessity, if only to do justice to the subject entrusted to the Committee as also to the cause of protecting the land rights of the indigenous people of Assam. To add fuel to the fire, the Committee's functioning was handicapped by several constraints. Firstly, there was no office room allotted to the Committee for its regular functioning until 27th June, 2017, nor was any staff affiliated to it for its help, guidance and assistance till then. Secondly, the services of Shri Rajesh Prasad, IAS, Commissioner and Secretary to the Government of Assam (GOA) in the Department of Revenue and D.M. as the Member Secretary of the Committee which were of crucial necessity for the Committee's smooth functioning were not forth coming. It appears that the Committee's pressing need for his services was relegated to a lower priority in relation to his normal duties. It needs no emphasis that the Committee's works were significantly handicapped due to non availability of his services. Understandably, the Member Secretary being a non-participating functionary in the Committee, non-availability of his services was a stumbling hurdle. The GOA could not also place even a stenographer at the disposal of the Committee whose services were necessary for expeditious preparation of the Report. The Committee was, therefore, constrained to bring the routine absence of the Member Secretary to the notice of the appropriate authority of the Government of Assam, when by a subsequent Notification, the Government of Assam was pleased to appoint Shri Manoj Kumar, IAS, Director of Land Records & Surveys, Assam as the new Member Secretary to the Committee and also Shri Santanu Bharali, Legal Adviser to the Chief Minister of Assam, as an additional new Member. The Committee regrets to say that here again, there was no improvement in the situation and the assistance that was expected of a Member Secretary to the Committee or of the new Member was not forthcoming. However, bearing with all these constraints, the committee had submitted its Interim Report dated 20/07/2017 and has spared no pains to ensure that the Final Report can be submitted by the time finally extended (31/12/2017). Admittedly, the Committee was under great pressure to increase its working days substantially, meeting almost on all working days, even without the Chairman as the Chairman is settled in Delhi, and it was naturally difficult for him to attend each and every sitting. These sittings were held with the consent and approval of the Chairman. The Members, on their part, had kept the Chairman abreast of the latest progress made towards the preparation of the Final Report from time to time.

2.4. The Committee also notes with interest that a very common complaint or suggestion that the Committee had received was about the land laws, particularly the Assam Land and Revenue Regulation, 1886 made by the British Government being outlived its utility. Most of the people both common and enlightened advised that this anti-indigenous people law should be scrapped. It need not be emphasized that this piece of law is the most important law governing administration of land in Assam. Though enacted by the British regime approximately 130 years back, the Committee has no hesitation to say that it is still relevant. No doubt that during this long period, sea changes in the demographic size and pattern /socio-economic domains of Assam as also in the arena of land administration in terms of the growing imbalance in the equation of availability of and demand for land has taken place. Admittedly, its principal motive was to extract as much revenue or gains from the land, for the benefit and welfare of their homeland, as feasible. This was achieved either by arbitrary enhancement of land revenue of the indigenous people of Assam or making them encumbered, as was

often done, with payment of revenue for land beyond their capability of cultivation. The arbitrary and exorbitant occasional increase in land revenue often led to violent revolts by the Assamese farmers which inter alia led to the massacre of Patharughat and Phulguri even as huge grants of land were made to the British and European tea, coffee and rubber planters at highly concessional rates of revenue. That was, of course, a time when vacant land was plentiful and the real problem was to allot these vacant lands and to extract as much revenue as could be done. In fact, huge plots of land were allocated to the British and European tea planters on lease either at highly liberal /concessional rates of revenue or as partly revenue-free grants with tenures of either 99 years or 45 years. And when the indigenous cultivators had incurred the wrath of the British administrators, it was an opportunity to burden them with liability of paying more revenue for greater allotment of land.

2.4.1. However, during the past 130 years huge changes on all fronts including political division of India and Assam, consequent reduction in the geographical stretch / surface of Assam, leading to scramble for land etc have taken place. Besides due to natural growth of population, immigration from across the Indo-Bangladesh borders/ migration of population from different States of India in search of livelihood the demographic pattern of the State has changed substantially. A malady associated with the infiltration of suspected foreigners is massive encroachments on land in an organized manner mostly in Char chapori areas or in khas or in various reserved lands – a dangerous phenomenon which has of late metamorphosed in to overnight setting up of illegal villages creating concomitant law and order problems. Added to these adverse syndromes, rituals of natural calamities like flood, erosion and siltation of agricultural lands act has acted as destructive agents intensifying the adverse land-man ratio with all its concomitant problems.

2.4.2. Changed Time, New Problems: While the contentions of needing changes in the ALRR, 1886 cannot be totally brushed aside and each and every crucial provision in it needs close scrutiny in the current socio-economic, demographic and geo-physical context, specific and concrete suggestions as to where the law has gone wrong or acted as deterrent, or what changes in particular are necessary, are almost conspicuous by their absence, except in one or two cases. While the Committee took pains to examine some of the crucial features of this rather fundamental Jurisprudence on land and revenue administration of the State as also those of the other related land laws, it wishes to make it clear that the time frame mandated to it had proved too meagre to venture attempting any such exercises as overhauling this and other land laws. Besides and admittedly, the Committee cannot and does not claim that any of its members is a specialist on the subject which is so vast and yet so technical and sensitive in nature. To expect such a comprehensive output would be asking the committee to do an impossible. The committee, therefore, has, of necessity, confined itself to touching upon only the general features of the provisions of the important land laws and the efficacy or otherwise of their administration by the Government machinery at various levels.

2.5. Crucial Role of an Ideal land Policy: The Committee understands that ultimately it is the Land Policy that guides and determines as to what law is to be enacted or what provisions in the law are to be made to carry out the purposes laid down in the Land Policy. It needs no emphasis that the principal object of a Land policy should revolve round protection of land rights of the indigenous people of Assam, an efficient land administration, equitable distribution of land amongst the land less people, optimal use and benefits and welfare of the stakeholder, economic progress, maximum social benefits, maintaining ecological harmony and reservation of sufficient land for community benefits and above all, reservation of a portion of the land for emerging successive generations/ posterity. In that view, an ideal land policy

should make suitable provisions for protection of the existing land surface against natural calamities or external occupation, reservation of sufficient land for VGR, PGR, water bodies forests, Tribal Belts and Blocks, sports, trade, education, markets and other infrastructures in the rural sector of the economy and, above all, rational management of agricultural and which is of fundamental importance in bringing economic well being of the 86% of the indigenous people living in rural Assam with its basic characteristics of agrarian economy. As the basic task of the Committee is to suggest measure for protection of the rights of the indigenous people of Assam, it is incumbent for the Committee to identify (i) the nature of rights over the land that need to be protected and (ii) suggest as to who an indigenous person of Assam is.

2.6. Nature of Rights over land under the law: Rights over land stem from the various types of estates recognized by the Assam Land and Revenue Regulation (ALRR), 1886 and other relevant laws relating to administration of land. Under Section 6 of the ALRR, 1886, the following types of rights are recognized: (a) rights of a proprietor or a land holder and a settlement holder other than a land holder; (b) rights legally derived from (a) above by way of legal transfer such as sale, mortgage, exchange, gift etc (c) rights acquired under sections 26 and 27 of the Indian Limitation Act; and (d) rights legally acquired by any person as a tenant under the Assam (Temporarily Settled Areas) Tenancy Act, 1971. However, all the three categories of rights are derived from (a) above. The Committee proposes to examine some of the issues connected with protection of these rights in due places.

2.6.1. Proprietary Right: A proprietor by definition is the owner of (i) revenue free estate and (ii) a permanently settled estate. Lands settled with Satras or temples are Debottar Lakhiraj (revenue free) lands. Lakhiraj estates mean and include estates which were *bonafide* and valid grants made by the Ahom kings and were recognized by the British government as revenue free estates. Baksha Lands which were grants from the Kachari Kings to their priests and servants constitute a special kind of revenue free estates recognized by the British Government so long as they were held by the family of the original holder but are liable to assessment of revenue when transferred other than when it stands transferred by inheritance. A new class of revenue free estate was also created by the British government in the early stage of their reign with a view to encouraging the growth and expansion of the tea industry in Assam. For that purpose, huge areas of land were granted for special cultivation of tea almost wholly or mostly to those who were white-skinned British/ European planters on especially favourable terms. For this purpose, the following Rules were devised: (i) Wasteland grant Rules, 1838. Under this Rules huge plots of land were leased to the tea planters for 45 years with benefits of one fourth of revenue free land in perpetuity (ii) The Old Assam Rules of 1854: It was also a Rule for granting huge areas of lands on lease to the white-skinned planters for 99 years with similar highly favourable concessions. That kind of situation requiring to attract white-skinned tea planters for cultivation of tea crops in Assam is no more. The Committee while examining the rules and regulations of the ALRR, 1886, therefore, proposes to examine, all the relevant land laws including the provisions of the ALRR, 1886 to ascertain, if these rules have created any hurdle for administration of the land in the best interests of the indigenous citizens of Assam or whether it still has any role to play.

2.7. Community Rights over land: In addition to the various classes of individual rights over land available under the laws aforesaid, there are certain rights of the community of a particular village or a particular locality or an organization-whether religious or social- over land which are available for community use or can be commonly availed of, or its benefits accrue to the community as a whole. Such rights include the rights over village grazing reserves (VGR), professional grazing reserves (PGR), forest reserves, open spaces, roadside reserved lands, water bodies or lands comprising socio-cultural

or religious grants like Satra ,temple or wakf land granted for carrying on socio-religious purposes etc. The community benefits from such common grants by way of grazing their cattle, community fishing, carrying on socio-religious purposes inscribed or inherent in such grants or for preserving ecological balance of the locality. It is, therefore, incumbent on the Committee also to suggest measures for protecting these community rights over these reserved community lands. The Committee has taken note of the grave danger to the safety and security of not only the land of the indigenous people but of the identity of the indigenous people themselves. Now, the most crucial question that has been raised by certain vested circles is: who is an indigenous person?

2.8. Who is an Indigenous Person of Assam? : The concept of “an indigenous person of Assam” has been unduly hyped and politicised, mostly by the political class or the vested circles who have reasons to feel insecure once the storms of controversy over the indigenous people’s tea cup blows down. The concept of indigenous person is, in fact, plain, simple and well demarcated in the philological boundaries and admits of absolutely no confusion, controversy or distortions. Any attempt to distort its meaning inflicts injury to the philological integrity, discipline and nicety and is, therefore, mischievous and unethical. In order to salvage the seeds from the whiffs, therefore, the ploy of the anti-indigenous mischief doers should be exposed and the undue controversy contrived as a ploy to thwart the objective of protecting the land rights of the indigenous people of Assam should be put to an end. Surely, the anti-indigenous invisible forces are very active and have already walked a long distance. The confusion and controversy mischievously created and unduly hyped must be demolished and the true meaning and purport of the time-honoured word “indigenous” or its vernacular equivalent “*Khilanjia*” salvaged in the interest of safety and security of the land rights and of the very identities of the pristine (indigenous) people of Assam. This has become an imperative need for the simple reason that Assam is inhabited by a multi-coloured population which include not only non-indigenous Indian citizens from various States of India, but also a dominating size of the total population of Assam who are of doubtful origin or are of either illegal Bangladeshi or persons of the erstwhile East Pakistan/ Bangladesh origin- all mingling together with same or similar look, language and culture. Naturally, land being the most scarce and most treasured gift of Nature, the land rights of the native people / “sons of the soil” should have the first claim over the land of Assam just as other non-indigenous Indian citizens or the foreigners, as the case may be, have or are presumed to have, the same rights in their respective States or their own home land. Therefore, it is of utmost importance that the question of who is an indigenous person with reference to Assam should be settled. This will ensure safety and security of their land rights and their identities, enable to effect a fair and equitable distribution of land amongst the eligible landless indigenous people of Assam as also to serve the cause of peace and order amongst the various sections of the people living in Assam who include not only non-indigenous Indian citizens but also suspected or illegal un-identified foreigners. It is relevant to note here that in the wake of massive infiltration of the Bangladeshi Muslim peasants as also migration of people from other States of India, the ratio between the indigenous people and the non-indigenous citizens/ non-citizens is progressively deteriorating. The indigenous people are apprehensive that should this trend persist they would be reduced to minority in their homeland. In this context, a Map showing distribution of the indigenous people in the State is annexed as **Annexure I**.

2.8.1. As the Committee’s task revolves round protecting the land rights of the indigenous people, the first task of the Committee consists naturally and inescapably of determining, as to who is an indigenous person of Assam. While ascertaining who is indigenous and who is not, one has to remember that all indigenous people of Assam are citizens of India, but all citizens of India are not indigenous people of

Assam. The issue of determining who the indigenous people of Assam are, is neither indeterminable nor is any special knowledge or expertise needed for the reason that this is a matter rooted in the firm soil of established norms, philological rules, principle and practices, both at national and international levels and, therefore, lends no scope for any twist or distortion or prevarication, as will be seen in the latter paragraphs. Much to the anguish of the native population of Assam, the unfounded misgivings and confusions created on this score are the deliberate attempts of the patrons and agents of the rootless people encroaching on a major chunk of Assam's land to stall the process of salvaging the seeds from the whiff, that is, to distinguish the native sons of the soil from the land-grabbing illegal Bangladeshis and the land-thirsty business community who have in recent years aggressively taken to land grabbing through speculative investments on land. What must be remembered is that, when the assigned task of the Committee revolves round and relates wholly to suggesting measures for protecting only the **land rights of the indigenous people of Assam**, it would reflect the Committee's escapist mindset, to gloss over or brush aside this central issue under its carpet without deciding or identifying as to who, in its opinion, an indigenous person of Assam is. To recommend measures without traversing this sensitive area, it would be as bad as, the Assamese adage- '**Nagoi Gargaonar Baatori Likh**', that is, to write about Gargaon without ever visiting Gargaon, the then capital of the Ahom Kings.

Therefore, the Committee, in its wisdom has given a serious thought to this pernicious issue, and in the interest of safety and security of the land rights of the indigenous people of Assam as also of their very pristine identities not excluding peace and amity amongst the various sections of the people, it has taken the pains of analysing this issue central to its duty and responsibility, purely in its literal and philological impeccability, absolutely free from any other extraneous considerations: Given herein below are the various concepts which are recognized and applied/accepted nationally and universally:

2.8.2. Concept of Indigenous Person as per the Census Report of 1951: As per the Census report, 1951, an "Indigenous person of Assam" means a person 'belonging to the State of Assam' and speaking Assamese language or any tribal dialect of Assam, or in the case of Cachar, the language of the region".

This concept of an "indigenous person" stresses on fulfilment of just two conditions for acquiring the status of an indigenous person, namely, that he or she (i) must belong to (i.e.; be born in) Assam and (ii) he or she must 'speak' either Assamese language or any of the tribal dialects/languages of Assam or, in case of Cachar, the language of the region (Bengali). This concept, apart from being incomplete, lends scope for twisted interpretations of the term 'indigenous'. As per this criterion, the only conditions that need to be fulfilled to be an indigenous person of Assam are that he or she has to live in Assam and speak the Assamese language or any of the other languages referred to above. Going by this definition, anyone who is a non-indigenous Indian citizen living in Assam can also claim to be an indigenous person of Assam provided he or she has been living in Assam and knows how to speak one of the languages mentioned therein. To cite an instance, a Bengali or a Bihari or a Punjabi or a Marwari living for a long time in Assam and speaking or even writing one of the languages of the State as mentioned above, can be an indigenous person of Assam. Further, this concept would contradict and be fundamentally different from, the ones given in the various dictionaries or that adopted by the UNO in that, the characteristic components that constitute indigeneity in a person (here with reference to Assam), shall then be vitiated and shall also be at variance with the former.

2.8.3. Dictionary Meaning: Meaning of an indigenous person given in various dictionaries conveys a more comprehensive, appropriate and acceptable perception of the term. According to Chambers'

Twentieth Century Dictionary, the word 'indigenous' means native born; native = aboriginal' = ancient'. The word ancient means very old, of former times; of long standing; belonging to or relating to times long past, specially before the downfall of the Western Roman Empire (476 AD) , that is, a period that goes back to nearly 2500 years. According to the Oxford Dictionary, the words ancient, indigenous and aboriginal are same and synonymous. According to accredited Assamese dictionary namely -Hem Kosh, a '**Khilonjia**' (indigenous) person means an ancient person; living at a particular place for many generations, that is a person who is ancient, aboriginal, indigenous, and has been living in his land for many generations. According to *ChandraKanta Abhidhan*, *Khilanjia* (indigenous) person means a person living in a place for many generations; an ancient person etc.

2.8.4. Concept of Indigenous person adopted by the UNO: Though the UNO has not so far formally adopted any definition of the word 'indigenous', it has for all practical purposes accepted and used the following definition given by Jose R. Martinez Cobo: "Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other section of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sections of societies and are determined to preserve, develop and transmit to future generations their ancestral territories , and their ethnic identity, as the base of their continued existence as peoples, in accordance with their own cultural patterns , social institutions and legal system"

2.8.5. The Views of the Sanmilita Mahasangha on Who an Indigenous Peron of Assam Is:

According to the *Sanmilita Mahasangha*, an organization representing about 49 or so indigenous tribes of Assam, 'indigenous persons of Assam are those who have been living in Assam continuously from 24 February, 1826, the date of *Yandaboo Treaty* and they alone should be termed and accepted as "indigenous "people of Assam". In defining the term 'Assamese' the Maha Sangha has opined that those whose mother tongue is Assamese and have used/ spoken/ read Assamese as an associate language or lingua franca, in addition to their own language/dialects and are preaching and practicing their own culture, should be accepted as "Assamese" (taking "Assamese and " indigenous" as interchangeable/ synonymous) for the limited purpose of receiving, or being claimant to, the privilege of the special Constitutional, Legislative and Administrative safeguards granted by the Government of India under Clause 6 of the Assam Accord, 1985.

2.8.6. The Basic Traits/ Characteristics that Make a Person Indigenous: The basic elements that make a person indigenous are:

- (i) That he should be an aboriginal/ancient person living in the State of Assam for several generations.
- (ii) That he belongs to an ancient tribe/ ethnic clan living in Assam from generation after generations engaged in sustaining the linguistic, cultural and social tradition and vale of the pre-colonial/ pre-invasion era.
- (iii) That the social, cultural and traditional value of his ethnic clan is pristine to and has originated in Assam and further, that he believes his culture, tradition and language to be different from others inhabiting his land due to their exodus.
- (iv) That he believes that the ancient people of his clan have become or are poised to become minority in his own land due to migration of invasion by outsiders/ foreigners and that.

(v) That the ancient/ indigenous or native people are determined to preserve their pristine ethnic, linguistic and cultural identity; and that.

(vi) That they are committed and determined to continue to live in their ancestral land preserving for the future generations their ancestral heritage, culture, language and literature intact. And finally that,

(vii) That he or she is not an indigenous person of any other State of India or that he or she does not speak the language of his State of origin in the family and also that he or she is not wedded to his or her original culture. In other words, a person who is an indigenous person of any other State of India, speaks language of the State of his origin in the family and has also retained his original culture cannot be called an indigenous person of Assam because a person cannot be an indigenous person of two States with two mother tongues and affinity to two cultures.

2.9. Case of Non-Indigenous Indian Citizens Living in Assam: It must, however, be understood clearly and it enshrouds no doubts whatever, that an "indigenous person of Assam" is radically and characteristically different from other non-indigenous citizens of India living and practicing their trade, business and other professions in Assam. The fact that they have become long-time inhabitants of Assam does not necessarily or ipso facto make them indigenous persons of Assam, unless their long residence in Assam is accompanied and reinforced by other traits or components that together make a person indigenous person of Assam. For, there are established traits, norms and qualifications that are required to be fulfilled for acquiring the status of an indigenous person of Assam. Thus, an indigenous person of Assam and an Indian citizen inhabiting in Assam are two different connotations and one must not be confused with the other. In other words, while all Assamese (indigenous) persons of Assam are Indian citizens, all the Indian citizens living in Assam are not ipso facto indigenous persons of Assam. To make it more eloquent, the epithet 'Indian citizen' is a genus while the 'indigenous person of Assam' is a species. To make it still more annotative or specific, while all the indigenous persons of Assam are Indian citizens, all Indian citizens living and carrying on their trade and professions in Assam, for howsoever a long period it might be, cannot be called indigenous persons of Assam, unless they acquire other associated traits of an indigenous person, in terms of established or universally accepted norms, principles and characteristics. In any case, the political class who are used to reaping windfall only are interested in keeping such issues ever alive often by injecting seeds of confusion and fear in the simple and innocent minds of those whom they have used as their voting machines. This sound background notwithstanding, the Committee has nevertheless a delicate and sensitive task of suggesting who an indigenous person is, of course, based on well established and universally accepted principle and practices. The views of the Committee on the basic and indispensable traits and characteristics that purvey components of indigenous person with reference to Assam are inherent in the above analysis, which can be easily gathered there from and taken as recommendations of the Committee. It should be clearly understood by all that to salvage the undistorted and true meaning of the word "indigenous" is a pre-condition for preserving and protecting the sanctity and purity of the time-honoured word, no less than protection of the land rights of the real indigenous, ancient or pristine people of Assam inhabiting the land called Assam, and more so, for protecting their very identity susceptible, as it is, to be gulped by the surging waves of illegal migrants flooding the state from all directions, particularly from across the Indo-Bangladesh International Borders..

2.10. Strategy and Methodology of our Investigation: The Committee's first step was to have access to all the books of law and the rules and regulations relating to the administration of land in the State besides thousands of circulars/ executive instructions issued from time to time on various matters

relating to land. The Committee thankfully acknowledges that the Government took care to supply promptly almost all these necessary enactments, Rules, Regulations, Executive instructions and Circulars. Then the Committee, having gathered the first hand knowledge about the issues and the task ahead from the relevant books etc, decided, as a next step, to interact with the stakeholders, the Deputy Commissioners of the Districts, various social and public organizations and have a better grasp of the entire gamut of the land-related problems from the persons at the grass root levels as also to have the benefits of their advice and wise counseling. With a view to achieve the objects, the Committee had visited the offices of the Deputy Commissioner, Kamrup (rural) and Kamrup (metro) districts in which the concerned land record staff and revenue officers had interacted and offered their views and suggestions. The Committee also decided to supplement these facts and knowledge by interacting with the Revenue Department of the Government of Assam and had a Video Conference organized in the Dispur Secretariat Conference Room on 17.03.2017 in which, apart from the officers of the Revenue Department of the Government of Assam (GOA), almost all the Deputy Commissioners of the State participated and offered their views on the various issues that cropped up during the discussion. The Committee, in its considered view, had also decided to have the benefits of the vast experiences which the retired revenue officials had gathered during their long innings of service and kept stored in their reservoir of knowledge. The interaction meet was organized on 18.03.2017 at Dispur Secretariat E Block.

2.10.1 The next step of course was to visit various districts and interact with the stakeholders, interested public organization and the deputy Commissioners besides the subordinate revenue officials under the district establishments. In the process, the committee had visited as many as 27 districts of the State and profited from the interaction, among others and in particular, with the Mauzadar, land record staff, the Gaonburah, various stake holders as also the enlightened sections of the public. The list of the districts visited on different dates by the Committee etc. is enclosed in **Annexure-II**.

2.10.2 In addition thereto, the Committee had visited the office of the Sonpur Circle office and had lively interactions with the various stake holders and the public organizations. The enlightened gathering had complained to the Committee about encroachment of huge blocks of land which formed part of the erstwhile Sonapur Tea Estate. This led the Committee to visit the Sonapur TE (TepesiaTE) site and found that the complaint received from more than one organization was based on facts. Encroachment of huge blocks of tea garden land by an educational Institute, viz, Donbosco University was made in the very nose of the government authorities and a beautiful educational institute had come up in a sprawling complex in the heart of the tea garden. This incident also gave the Committee a broader vision and an insight in to how indiscriminate encroachments on Government land/ tea gardens elsewhere are taking place in the very nose of the government officials. It is pertinent to note as per the provisions of the ALRR, 1886, when the land allotted for a specific purpose is not used for the said purpose, the government should take back the unused land. But what is even more serious is the fact that these huge blocks of lands were granted only on lease to the tea garden and the tea garden authorities had absolutely no right to sell it or otherwise transfer it to any third party as the leaseholder has no title to pass over. Incidentally, this is not, as will be seen in a later chapter, an isolated or only case of uncultivated/ leasehold land being sold out instead of being reverted to the government of Assam. The Committee's visit to Sonapur Circle was made on 20.05 2017.

2.10.3. The land in question grabbed by the Don Bosco University falls in the category of land under Protected Belts and Blocks and the act of the said university has resulted in violations of provisions of Chapter X of ALRR, 1886 which is spread in several villages under Sonapur Revenue Circle. Mutation has been passed in favour of large number of ineligible persons. Land of the abandoned tea garden has been transferred to private institutions, resorts. The stake holder pin pointed a number such cases which violated the prescribed provisions of the ALRR, 1886 and the standing Govt. instructions.

2.10.4 In the wake of its visits to different districts, offices and places, the Committee, apart from having interactions with the stake holders or organizations otherwise concerned, had also received around 200 Memorandums reflecting the various natures and dimensions of the problems faced by them and praying for remedy thereof. The Committee had given due weightage to the issues mentioned in these Memorandums while analyzing the facts and making recommendations on various related issues. A list of the Memorandums received by the Committee is enclosed as **Annexure-III**.

2.11. Wide Publicity Given to the Committee's Sitzings: The Committee also felt that it would be to the interest and advantage of both the Committee and the stakeholders/ interested people/ public to give the widest publicity of the Committee's functioning as also its purpose and solicited their considered views/ suggestions as to the nature and dimension of the problems faced by them in protection and enjoyment of their land rights as also the nature and quantum of relief they feel they needed. With that end, the Committee requested the Government of Assam to give the widest publicity of the Committee's appeal soliciting wide public views and suggestions by using both electronic and print media. Unfortunately while the use of the electronic media went by default, the print media was reasonably useful and the response received from the stakeholders/ general public, by and large, was not altogether discouraging. Simultaneously with the public notice fixing the said public meetings, a broad-based Questionnaire was also sent through post so as to guide them to prepare their answers. The Questionnaire is enclosed as **Annexure-IV**. The public meetings were held for three days on 17th, 18th and 20th July, 2017 in the sprawling auditorium of the Administrative staff College at Khanapara. On these three days of the public meeting, as many as 127 respondents participated in the Conference Hall and altogether 23 Memorandums were submitted by interested individuals listing their grievances and requesting solution. Quite a number of organizations and individuals had also visited the office of the Committee housed in Room No. 11 of the Guwahati Circuit House. As a result of all these efforts, the Committee had received about 200 Memorandums. The result was that the Committee had benefitted profusely from the suggestions and views received through these discussions / the Minutes of the recorded discussion. Needless to say that all this process had built up a rich repository of facts and knowledge reflecting the various facets of the problems that stemmed from their enjoyment of the land rights.

2.11.1. The Committee was convinced that since the Revenue Department of the Government of Assam is the Administrative Department for dealing with all land matters, to obtain the views and suggestions of the Revenue Department before attempting to write any report is a must. Accordingly, a set of questions was prepared and sent to Revenue & D.M. Department, Government of Assam covering various issues relating to administration of land. The questionnaire sent to the Revenue Department is enclosed as **Annexure-V**. The Committee would like to say that it was a quite a task to finally extract some positive response to our requests from the GOA..

2.12. The Broad Issues Before the Committee: It should be understood that the Committee has summarized below only the main issues depicted generally in the Memorandums as referred to in **Para 2.10.4.** and has avoided details enumerated in the individual Memorandums. The issues thus summarized from these memorandums are as follows:

- (1) Conduct of immediate Resettlement operations/ Survey and Settlement Operation
- (2) Conduct of Cadastral survey in the non-cadastral villages or towns
- (3) Issue and distribution of Pattas to indigenous land holders
- (4) (i) Removal of encroachment /illegal occupation of all kinds of Government lands including various reserved lands, Government khas land, Protected Belt /Block lands,(ii) Satra /Temple/Debottar/ Dharmottar/ Brahmottar/ wakf lands, Water bodies/ wetlands .
- (5) (i) To ascertain the status of the leasehold land settled with the tea gardens during the Colonial British administration with fixed tenure and (ii) Taking over by the GOA of the uncropped surplus lands (iii) Eviction from lands under alleged encroachment by tea gardens (iv) Examining whether the revenue free land in perpetuity granted as per Original lease still continues.
- (6) Preservation of Satras/ Temples/ Wakfs and all kinds of places/ Monuments having historical, archeological and ecological importance
- (7) Amendments to and enforcement of the Legal Provisions including ALRR, 1886 in the protected belts/blocks under chapter X of the ALRR, 1886
- (8) Administration of the extensive Char Areas-to be incorporated as a part of the land Policy with appropriate new legal provisions, where necessary
- (9) A New Land Policy for Assam to serve the present needs of the indigenous people of Assam
- (10) To examine the provisions of The Assam Land and Revenue Regulation, (ALRR), 1886 and the need for its overhauling/ suitable changes
- (11) Ban on transfer of agricultural land to Non-agriculturists for non-agricultural purposes
- (12) Ban on allotment/ settlement of Land in hills, forests, and water bodies, roadside or riverside reserved lands /VGR/PGR, and Reserved forests etc
- (13) Reservation of lands for the common benefits and welfare of the community as a whole
- (14) Building up of Industrial Growth/ Infrastructure Development Centres for growth and development of industries including Tourism industries/ trade etc.

- (15) Reservation of sufficient open space for protecting environment and ecological balance
- (16) Reservation of certain percentage of land for the future Generations
- (17) Building up of modern tourist destinations/ beautification centres for growth of tourism industry in strategic areas/ beautification of Lakes, Beels and water Bodies like Deepor Beel, Borsala Beel, Saru Sala Beel Sil Sako etc and similar other Beels or water bodies in the State of Assam.
- (18) Enforcement of Ban on sale/ transfer of Land in any form to Foreigners
- (19) Co-ordination between the State Government and the NF Railway Authorities for removal of large-scale encroachment of the extensive tracks between PWD Roads and the Railway Lines
- (20) Co-ordination between the Revenue, Forest Departments and Railway Authorities for Planned and Optimal utilization of peripheral lands
- (21) Digitization of all records of revenue department at Secretariat, Directorate , District and Sub-divisional Levels Administration in the State
- (22) Structural Reorganization and Re-strengthening of the Revenue Department establishments at Secretariat, Directorate, District and Sub Divisional Levels in order to improve the services through Digitization/modernization process

2.12.1. The issues identified for discussion and reporting to the Government as paraphrased in *Para 12.12* above are naturally broad and any recommendations that may be made by the Committee on the basis of analytical exposition or elucidation of the said issues will essentially attract peripheral issues or issues which are allied to or connected with these main issues, by way of justification of what we say or recommend. Secondly, the nature and extent of the Committee's observations or recommendation on each of them shall, of necessity, depend on, and be guided and dictated by, the Land Policy, which is itself in the process of undergoing transformation having as its goal, the protection of the land rights of the indigenous people of Assam as also smooth and efficient administration of land .if only to prompt delivery of service and attain the highest good to the indigenous society in the context of the highly changed socio-economic changes since 1989 as also to meet the exigency of the current situation.

2.13. Conclusion: A Caveat: The Committee wishes to make it clear that while discussing the word "indigenous", it took utmost care to remain strictly confined to its pristine or original meaning, aware that to do otherwise would tantamount to lighting a fire in the hornet's nest and to give a chance to vested circles or anti-social elements for stalling the process by creating unnecessary confusion and controversy. The harsh reality that must not be forgotten is that the word "indigenous" is derived from an accredited foreign language which emerged and was accepted the world over in its true essence, literal accuracy and impeccability because it reflects incontrovertible research inputs of the acclaimed scholars and philologists of the hoary past who attained their lifelong dreams to build bridges on the rivers of communication between the world communities

2.13.1. The Land Policy as the Pivot: Finally, the Land Policy is the lifeline of the entire system of land administration and everything else- be it the enactment of law, framing of rules and regulation- revolves round its peripheries. In other words, enactment of laws or framing of rules and regulations is a means to achieve the ends enunciated in the Land Policy and such laws and rules have to fit in with the dictum of the Policy. In this view, it is of utmost importance that the land policy should be such that it will aim at achieving the maximum good and welfare to the targeted group of the people as enunciated in the land policy. So, the enactment of laws should be such as would bring the optimal good to the people for whose welfare the Government, the Land policy and the laws etc can justify their existence. The position of the land policy being so crucial, we next proceed to discuss about a suitable land policy for Assam. The Committee in proposing a new land policy has adopted a strategy of dealing with the subjects from three different angles: (i) Suggest modifications of the existing Land policy of 1989 (Part-I) (ii) Comment on the Draft land policy (2016) proposed to be adopted by the government (Part- II) and Supplementary Comments so as to cover the areas which have found no mention in either the land Policy of 1989 or the Draft land Policy of 2016 (Part-III).

Chapter-3

*“The old order changeth, yielding place to new,
And god fulfills himself in many ways,
Lest one good custom should corrupt the world.”*

-Tennyson

Land Policy of Assam

3.1. General Observations on the Land Policy of Assam,1989: During the course of the last 70 years after independence, the Government of Assam has adopted as many as four Land Policies, the last and it can be said that the best of all them is the existing Land Policy of 1989. This land policy was adopted vide Government Notification No. RSS. 359/88/123 dated 18th July, 1989. However, during the last 28 years after adoption of this Policy, sea changes in the socio-economic and demographic arenas of Assam have taken place and in this changed environment, some of the provisions made therein have either outlived their utility or at the least, need to be suitably adapted to the changed environment. Keeping this basic reality in mind, the Committee in its considered view suggests the changes indicated against each clause or sub-Clause of the existing Land Policy, 1989.

3.2. The Committee also wishes to make it clear that it would be a fantastic task for the Committee to think of framing a completely new land policy for the obvious reasons, not only of the fact that the Committee or any of its Members is not only not specialist in matters of land or land revenue, but also it is circumscribed by the time limit put by the Government of Assam. Admittedly, it would be too much for any reasonable person to expect that within an extremely meagre time frame at its command, it could perform a task so gigantic as to embrace in its fold the framing of a new Land Policy, suggesting changes in the existing land-related laws including the Assam Land and Revenue Regulation, 1886, the Rules and Regulations made under various enactments etc, the Circulars issued and so on. The suggestions only touch upon those issues or areas which need modifications or changes generally. The Committee, therefore, has based its recommendations as to changes against specific provisions of the existing Land Policy, 1989, other land-related enactments and the rules and regulations made there under.

3.3. It would be also pertinent to mention here that while the Land Policy, 1989 covers most of the basic features of the land administration and the related issues, certain provisions need to be changed so as to make them fit in with the changes brought about by the passage of the last 28 years or so. In order to make up this kind of gap, Government of Assam (GOA) has produced a new Draft Land Policy, 2016. The committee's comments have been incorporated, as desired by the GOA, in Part 11. There

are still certain other areas which were left un-trodden or have emerged either in the wake of the changes in the socio-economic and demographic domains or were left out because they were not considered enough ground to be reckoned with. The Committee considers those issues crucial in the context of protecting the land rights of the indigenous people of Assam and as such has traversed these areas as well, highlighting the nature and magnitude of the problems hidden therein. These issues have been discussed vide paragraphs included in part-III :

Part-I

Clause wise Specific Comments on the Existing Land Policy, 1989

3.4. (i) An “eligible landless person” appearing in Paragraph 3 of the Land Policy in its initial page should be determined as recommended vide 3.4.1. below

(ii) ‘Indigenous person of Assam’: The Committee has spelt out the term “indigenous” and who can be called “an indigenous person of Assam” fully in Chapter-2

3.4.1. In order to be an “eligible landless person” –

(i) He/she must be an indigenous person fulfilling all norms and conditions of an indigenous person.

(ii) For the purpose of allotment/ settlement of agricultural land, he/she should have no agricultural land. No land means zero agricultural land. The same principle should/would apply in the case of homestead land in rural or town areas.

(iii) A person having less than the maximum admissible land may be entitled to get so much of land as will raise the total land allotted or settled to the level of maximum admissible land as per the new Land Policy.

(iv) Allotment / settlement of agricultural land to eligible landless persons should be restricted only to indigenous professional agriculturists who depend for his and his family’s livelihood on cultivation. However, an indigenous indigent person who does not have any cultivable land or any other trade to sustain his life or sustains his life through cultivation on others’ land either as a co-sharer or as a tenant or even as an agricultural labourer on others’ crop field may be taken as a professional agriculturist for the purpose of allotment/ settlement of agricultural land.

(v) Non-indigenous Indian citizen should not be considered as eligible for getting agricultural land.

3.5. Allotment/ Settlement of Town/City land:

(i) In case of Town land, indigenous persons living in a particular city or a town and taking up certain professions for sustenance of life and having no residential land should be considered for settlement of land within the city or town area subject to availability of town land and fulfillment of the norms for getting such settlement and further, subject to the priority given to the indigenous landless person, when such priority becomes relevant. Such

allotment/ settlement of land should be invariably made only when and where a suitable land for settlement is available. In deciding settlement to all landless persons not excluding the indigenous people of Assam in such cities, all relevant laws and rules should be adhered to (e.g. total restriction on allotment/settlement of land in hills, water bodies, archeological, monumental and historical sites, all kinds of reserved land, protected belt or block , VGR, PGR, Satra/ Temple land (Debottar, Brahmottar and Dharmottar lands etc.)

- (ii) In selected/ deserving cases, allotment of residential land to a non-indigenous Indian citizen in a town or a city may be considered provided such indigenous person (a) has been a resident of the town or city for the last 15 years (b) he is required to stay in the town in the interest of sustaining his profession and to earn his livelihood and (c) his antecedents are not such as to make him an undesirable person. However, an eligible indigenous landless person should be given preference in allotment/ settlement of land over non-indigenous Indian citizens while preparing eligibility list/making any allotment/ settlement.
- (iii) Non-citizens or persons of doubtful origin shall in no case be considered eligible for getting allotment or settlement of land

3.6. Clause V & VI of page 2 of the Land Policy, 1989

3.6.1. Apparently, institutions of public nature mentioned at clause (v) also include institutions such as schools established by the private organisations. Allotment of land whether by acquisition of private land or by settlement of Government land involves social/community cost in the form of loss of land to the community or ecological imbalance. **So, while allotting land for such institutions, the quantum of land should not exceed the prescribed minimum laid down by the appropriate authorities/required for sustenance of the educational environment of the institution. In particular, the requirement should be assessed making allowance for (i) vertical growth as a precondition, as opposed to horizontal growth of the proposed institute (ii) Extension of social/community benefits in the form of preference given to employment to the unemployed youths of the locality which should be made a pre-condition so as to balance the social cost incurred in such cases.**

3.6.2. When setting up the institutions of Central Govt. Departments / Corporation involves transfer of agricultural land belonging to private persons, such transfer should, as far as practicable, be at first made from the larger farmers having non-cultivated surplus land exempting the marginal farmers. If it is unavoidable also to acquire land from the marginal farmers, then the institute setup on the acquired land should provide some benefits such as employment, contracts etc. to the owners of the land by way of providing alternative occupation, in addition to payment of compensation against the land value payable under the law.

3.6.3. Again, while acquiring land for such institutions of public nature, particularly for setting up industrial units, such aspects as availability of infrastructural facilities in the neighbourhood as also a compact block of land facilitating cluster growth of industries/commercial institutions should be given due considerations such that the industrial effluents emitted there from may not cause any damage to agricultural fields in the neighbourhood. For instance, the industrial effluents released by the Oil India Ltd and other Oil sector undertakings have reportedly damaged crops of hundreds of cultivators in the adjoin areas.

3.7. (Clause 1 of the land policy, 1989): ALLOTMENT/SETTLEMENT OF LAND FOR ORDINARY CULTIVATION IN RURAL AREA:

The word “indigenous” appearing in Para 1.1 in respect of allotment/settlement of land should be defined clearly below the said provision. The Committee has already explained as to who is an indigenous person of Assam vide Chapter -II.

3.7.1 (Clause 1.1 &1.2) : After clause 1.1 and 1.2 of the Land Policy, the following should be added-

“If the allottee does not utilize the land allotted to him for the purpose for which it was granted for a continuous period of 3 (three) years, the land should automatically revert to the Government as per procedure laid down which should be followed by taking over possession of the land by the concerned Deputy Commissioner/ competent authority of the government.” This provision should be specifically inserted in either a separate clause or as a proviso to the main clause.

3.7.2 (Clause 1.3): Keeping in view the growing scarcity of land in the State, the Committee feels that the maximum limit of land admissible for allotment or settlement should be sliced down from 7 to 5 bighas in case of agricultural land and 3 kathas instead of 5 kathas in case of homestead land.

3.7.3 (Clause 1.4) : Should be retained as it is.

3.7.4 [Clause 1.5 (a)] : The word “indigenous” should be inserted before the words ‘land owner/cultivator’, appearing in the first line of the Clause,.

3.7.5[Clause 1.5 (b)]: The word “persons” should be preceded by the word “indigenous” and followed by the words “of Assam”.

3.7.6 [Clause 1.5 (c)]: The word “local” should be substituted by the word “indigenous”.

3.7.7 [Clause 1.5 (d)]: The landless Ex-servicemen should be an indigenous Ex-serviceman.

Explanation

It is factually incorrect to say that a cultivator who has land up to 3 (three) bighas either as a tenant or as an owner or as both can be regarded as a “landless person”, simply because the numerical 3 (three) and 0 (zero) are unequal. An indigenous person who has already 3 bighas of land shall be entitled to get such additional land as will raise the quantum of land to the entitlement level of 5 bighas uniformly applicable to all.

3.7.8 (Clause 1.6) : Should be retained as it is.

3.7.9 (Clause 1.7) : The figure 8 (eight) appearing in the last line of clause 1.7 should be substituted by 5 (five).

3.7.10 (Clause 1.8): Should be retained as it is.

3.7.11 (Clause 1.9): In addition to waste land, the Government should also identify the surplus land available under the Tenancy Act, 1971, Ceiling surplus land, or land derived from eviction of encroached

Government land or land derived from any other source for the purpose of settlement with the Indigenous landless people, subject to the condition that an authentic list of actual indigenous landless persons is prepared at the village levels duly authenticated by the concerned circle officer.

3.7.11.1. Government shall ensure mandatory maintenance of a Register (if not already maintained) of different classes of land including ceiling surplus land, water bodies, VGRs, PGRs, Char land, forest reserve, roadside reserve, riverside reserve, Devottar/Dharmottar/ Brahmottar/ Wakf land and land derived from eviction of various classes of lands. The Register should be maintained by the Director of Land Records at the State level and at the district and sub-divisional levels, by the Deputy Commissioner and the Sub-divisional officer respectively, in order to facilitate ready reference in relation to all matters pertaining to settlement/management of land including distribution of land to genuine landless indigenous persons of the locality.

3.7.12. (Clause 1.10): Should be replaced by the following clauses-

“Wherever khas /waste land/any land other than any kind of reserved land is in the occupation of indigenous persons cultivating orange and citrus plants / opening such gardens in compact areas for a continuous period of 10 (ten) years and there is likelihood of continuing the cultivation and possession thereof, then all such cases may be regularized by granting periodic settlement of the said land subject to fulfilment of all necessary conditions for settlement of land and due payment of premium fixed by the Government. The maximum limit of land per individual should not exceed 5 bighas. In case of a co-operative society or a group farming formed by local landless indigenous citizens/ unemployed youths, the maximum limit of land for allotment should be the aggregate of the land admissible for allotment to each individual member of the society/group”.

3.7.12.1: A new clause with two sub-clauses to be numbered as 1.10 (a) and 1.10(b) should be inserted below Clause 1.10, for the purpose of grooming/ developing a new class of entrepreneurs in the two sectors, viz, tea and Orchard/ horticulture etc. for the reasons given below:

(i) In the wake of growing unemployment among the youths of Assam, a large number of unemployed youths have started small tea cultivation either on individual capacity or in groups. It is a welcome development in the face of a growing menace of unemployment situation experienced by Assam. Reportedly as many as 80,000 such tea growers have taken to cultivation of tea on a small scale. In order that, they can survive the struggle and mitigate the rigors of unemployment growing in the State, the Committee recommends that the Government should give all possible supports /incentives and encouragements by way of allotment/settlement of land/grant of pattas, provide Government grants or loans and also issue guarantee to facilitate loans from banks after pattas have been issued in their names as and when necessary. It is easy to see that they need Government patronization/ help and assistance for cultivation of tea plants, building up factory and carrying on ancillary purposes/ all associated operations that go with the cultivation and marketing of tea – a situation that will go a long way in sustaining their survival in the face of a hostile environment that they find themselves in. The regularization of land under their occupation/ issue of pattas should be subject to fulfilment of all necessary conditions and payment of affordable/concessional premium after proper survey and verification. The wordings of the Clause may be designed suitably so as to fulfil this objective.

(ii) In order to diversify the professional pursuits of entrepreneurial vocation in the rural sector of the economy, similar incentives should be given in respect of cultivation of citrus/horticultural

plants/products *like* pineapple, guava, banana, lichi, olive, lemon, papaya, watermelon and similar other products. It may be relevant to mention here that since the various roads and other communication systems are likely to be improved under the Look / Act East Policy and is being pursued with new enthusiasm by all concerned, it would be appropriate that Govt. of Assam should diversify the pattern of special cultivation so as to include horticultural and other fruit productions which will have ready market not only within the country but also across the various parts of the South East Asia like Myanmar, Thailand, Singapore, malayasia etc. However, Government of Assam should also realize that a chain of Cold storage plants for processing and preservation of the fruits products should be established to provide gainful employment and income to the entrepreneurs and farmers. An aggressive campaign and awareness programme along with training should be undertaken to gain maximum benefit to our growers and farmers. In fact, the Government of Assam should conduct a study to understand the demand and supply of various horticulture and fruit products which are required not only in the country but also outside the country. A time bound action plan should be initiated to provide gainful employment to the emerging generation of the youths and entrepreneurs. Since the fruit and vegetable products are perishable in nature, State Government should extend necessary training programmes and support to all the potential entrepreneurs.

3.7.13 (Clause 1.11): It is a common knowledge that almost all the Char areas are predominantly inhabited by non-indigenous/non-citizens/illegal migrants from across the Indo-Bangladesh international borders. In fact, history is replete with instances and evidence that this infiltration has been going on since the pre-independence era, more specifically since prior to 1911 which was reflected lucidly in the Census report (Assam) of 1931. These extensive areas stretching from Dhubri to several Upper Assam Districts have become the most preferred habitats of the illegal Bangladeshis with organized land grabbing and establishment of overnight illegal villages as their hallmarks in not only the Char areas but also in all classes of government land including various reserved lands. These vast areas of the char lands have also been converted in to the hub of deadly criminal/terrorist/smuggling activities including thefts, robberies, dacoities, gambling, crime against women etc. As reported in the various media both print and electronic, in these sprawling Char areas, there has emerged a class of an institution known as Matabbar/ Dewani, who runs a parallel Government with their unassailable depredation and harassments to the inhabitants of the nearby Assamese village people and the call for help from the distressed go in vain because, the local police, scared of their life, are unable to gather courage to intervene and protect the indigenous people.. In other words, the Government presence in Char areas is non-existent. It is the imperative need to clear these areas of the organized land grabbers / illegal migrants/encroachers, in the interest of protecting the land rights of the indigenous people of Assam, promoting congenial atmosphere, maintaining law and order and ecological balance as also for improving the law and order situation in the State. The land Policy should specially provide for measures for extending its administration in the Char areas.

(i) Government should fix some principles/norms/criteria for identifying temporary, semi-permanent and permanent Char/Chapari areas and for giving settlement in the permanent/ semi-permanent chars by keeping the temporary ones open. No foreigners should be considered for land allotment. Only the indigenous persons should be considered.

(ii) In case of the Char/Chapari of a permanent nature, if no cadastral survey has been still conducted, it should be conducted and completed immediately and there after allotment/settlement of land to landless indigenous persons/cultivators should be given as per norms applicable in respect of other lands. As stated above, the transitory chars vulnerable to being washed away should be left

unsettled for reasons of allowing un-obstructed course of the mighty Brahmaputra, protection of ecological balance and above all, to push the obstructed river course to become more turbulent, erode away new areas and create new chars.

(iii) The same principles and methodology should be adopted in case of allotment/settlement of land to landless indigenous persons/cultivators in the permanent/ semi-permanent Char/Chapari areas identified on the basis of geologically accepted principles and criteria.

(iv) In respect of the purely temporary Char/Chapari areas which are liable to accretion/decretion due to annual rituals of flood the encroachers/occupants on such land should be evicted so as to neutralize the environmental hazard/ changing course of river.

3.7.13.1: Government have decided for giving allotment and settlement of land in the permanent surveyed Chars in the State with the local deserving landless Indian Citizens. The Committee would like to put a caveat to this in that before making such allotment to/ settlement with the landless people, it should be ensured that no non-citizens is made such allotment or settlement of land, particularly in view

Rivers, Streams etc.	Reservation of Waterside area
(1)	(2)
i) The Brahmaputra river The Barak river 100 meters
ii) Other rivers and big Government fisheries 30 meters
iii) Rivulets, Streams, canals and small fisheries. 30 meters

of the fact that the entire char areas of the state are predominantly occupied by the suspected Bangladeshis or persons of Bangladeshi origin and that no these are forbidden areas for the indigenous people of Assam.

3.7.14.(Clause 1.12): No land, falling within the area from the water line to a line parallel to the waterline and perpendicularly away to the country side for the distances as stated below for each of the categories of water masses, shall be allotted to, or settled with any individual person or body of persons.

Explanation: — Waterline is the line up to which the water usually covers the bank during rainy seasons and stands for the longer time of the season. In deciding the water line, the high flood waterline is not to be considered.

3.8. (Clause 2 of the Land Policy, 1989) : DISPOSAL OF LAND ACQUIRED UNDER THE FIXATION OF CEILING ON LAND HOLDINGS ACT, 1956 (AMENDED) AND UNDER THE ASSAM STATE ACQN. OF LAND BELONGING TO RELIGIOUS OR CHARITABLE INSTITUTIONS OF PUBLIC NATURE ACT, 1959 (AMENDED) :

3.8.1 (Clause 2.1): The following words should be added to this clause after the word “expedited” appearing in the last line: “subject to the condition that such tenants in occupation of the land in question

should be an indigenous person inhabiting in Assam, to be ascertained after proper investigation as per law by the appropriate authority.”

3.8.2 (Clause 2.2): Add the following words after the word “Government” at the end of the clause “subject to the condition.....by the appropriate authority”, as in clause 2.1 above.

3.8.3 (Clause 2.3): (i) The figure “8” should be replaced by figure “5”

(ii) Add the following words after the word “family” at the end of the clause- “subject to the condition.....by the appropriate authority”, as in clause 2.1 & 2.2 above.

3.8.4 (Clause 2.4): Note: (i) The word “allotted” in the first line of the clause should be substituted by the word “made”.

(ii) The word “indigenous” should be added after the word “landless” and before the word “cultivators” appearing in the fourth line of the clause.

3.8.5 (Clause 2.5): Note: The word “indigenous” should be added after the word “deserving” and before the word “landless” appearing in the second line of the clause.

3.8.6 (Clause 2.6): Note: The word “and also for creating open spaces/sports complexes/Government educational institutions” etc. should be added in the last line of the clause after the word “land”.

3.8.7 (Clause 2.7): Note: After the words “land policy of Government” appearing in the last sentence, the following word should be added – “In case any land already acquired under the provisions of this Act has been under encroachment by any person whether non-citizens or citizens, indigenous or non-indigenous, such encroachments should be removed forthwith and the land falling vacant should be distributed, in accordance with the existing provisions of law, amongst the indigenous landless persons”.

3.9. (Clause 3 of the land policy, 1989): ALLOTMENT/SETTLEMENT OF LAND FOR HOMESTEAD PURPOSE IN RURAL AREAS:

3.9.1 (Clause 3.1): (i) The word “local” appearing in the first sentence should be deleted.

(ii) The following words should be inserted at the end of the para “Provided that such persons should be found after proper verification to be indigenous persons.”

3.9.2 (Clause 3.2): After the word “homestead” appearing at the end of the clause, add the following- “Provided that such allottees are found to be indigenous persons of Assam after proper verification made as per law”

3.10. (Clause 4 of the land policy, 1989): ALLOTMENT OF LAND FOR ALLIED AGRICULTURE PURPOSE IN RURAL AREAS:

3.10.1 (Clause 4.1): (i) The word “local” appearing in the fourth line should be replaced by the word “indigenous”.

(ii) After the word “firm” add the following words “group of pisciculturists who is registered under the appropriate law/the Government department.”

3.11. (Clause 5 of the land policy,1989): ALLOTMENT/SETTLEMENT OF LAND FOR SPECIAL CULTIVATION

3.11.1 (Clause 5.1): The clause requires no alteration.

3.11.2 (Clause 5.2): (i) After the word “cultivation” appearing in the second line the following word should be added “including indigenous small tea growers or their associations/groups”

(ii) After the word “local” appearing in the proviso to (iii), the word “indigenous” should be added.

3.11.3 (Clause 5.3): Should be retained as it is.

3.11.4 (Clause 5.4): Should be retained as it is.

3.11.5 (Clause 5.5): Should be retained as it is.

3.11.6 (Clause 5.6): The necessity/applicability of the words “whose lands have not been acquired under the Assam Fixation of Ceiling on Land Holdings Act 1956, as amended” appearing in the first and second line of the clause may be re-examined.

3.12. (Clause 6 of the land policy, 1989): V.G.R. AND P.G.R. AND OTHER RESERVED LAND

3.12.1 (Clause 6.1): Re-write as follows “Henceforth preservation of the existing VGRs and PGRs for the use of the community/members of the public for the purpose of grazing their cattle which constitutes a prerequisite for carrying on agricultural activities including dairying is made mandatory and de-reservation of any VGR and PGR is absolutely banned. Further, VGRs and PGRs which were de-reserved for private purposes which did not in any way serve the community interest of the locality and are being used for private/commercial gains should be re-reserved, by cancelling the settlement, particularly in those villages or group of villages where the villagers/cultivators are facing hardships to maintain their cattle stock, much to the detriment of agriculture in the locality”.

3.12.2 (Clause 6.2): After the last word “encroachment” of the para, the following words to be added with a “/” encroachment, allotment, settlement or any form of transfer.

3.12.3 (Clause 6.3): Add the following at the end of the para after the word “purposes”- “appropriate measures for maintenance/upkeep of such gardens should also be provided for deriving the optimal utility/benefits from such public facilities.”

3.13. (Clause 7 of the land policy, 1989): ALLOTMENT/SETTLEMENT OF LAND FOR OTHER NON-AGRICULTURAL PURPOSES LIKE INDUSTRIES, PUBLIC INSTITUTIONS, HOSPITAL DISPENSARIES ETC.

3.13.1 (Clause 7.1): (i) The words “No agricultural land will ordinarily” should be replaced by the following words -“Agricultural land should in no case” (be allotted or settled for establishment.....) appearing in the first line of the clause.

(ii) After the word “Dispensary etc” the following words should be added “the Government will endeavour to identify lands for such purposes in separate compact blocks without involving use of agricultural land wherever such compact vacant lands are available.”

(iii) After the word “strictly” add the following “eco-sensitive areas like water bodies, hills, un-classed forest etc. should in no case be allotted for such purposes. The deposit of industrial/hospital

effluents must be disposed of in secluded areas specifically earmarked for such purposes so that environmental and health hazards can't occur".

3.13.2 (Clause 7.2): After the word "suitable land" appearing in the third line, the following words "other than agricultural land" should be added.

3.13.3: Add a new clause to be numbered as 7.3 as given – "Industries having health and environmental hazards like coal, coke, cements etc. failing to take adequate and appropriate preventive measures shall be liable to be prosecuted under the appropriate law and on conviction shall also be liable for appropriate punishment including imprisonment and fine to be imposed by the Government of Assam."

3.14. (Clause 8 of the land policy,1989): TEMPORARY PERMISSION FOR MANUFACTURING BRICKS, TILES ETC.

3.14.1 (Clause 8.1): The Committee feels that the brick, tiles and other similar factories constitute principal agents of damaging agricultural land and while they make huge profits, the community does not derive corresponding benefits. Therefore, the Committee feels that these factories should be left to buy suitable non-agricultural land unfit for cultivation land from private sources and according of permission to start such factories should be subject to taking appropriate measures to prevent health and environmental hazards. Permission to open such factories should be restricted only to indigenous persons of Assam. Further, such industries should be required to provide some financial support including employment to eligible young persons of the land owner's family by way of compensation against the loss of income from the land so transferred. Industrial license should only be given subject to strict compliance with the conditions to be fulfilled having regard to the environmental hazard and community interest.

Provided that no permission to open such factories in any agricultural land by any indigenous individual or firm formed by indigenous persons should be given unless such individual or members of the firm have taken manufacturing of bricks and tiles as a means of sole livelihood.

3.15. (Clause 9 of the land policy,1989): RESTRICTION ON TRANSFER OF AGRICULTURAL LAND

3.15.1 (Clause 9.1): This para may be substituted by the following:

"Transfer of Periodic Khiraj Patta land in any form i.e. sale, mortgage, lease, gift, exchange or in any other form held by a professional cultivator land holder to a person who is (i) not a professional cultivator and (ii) not an indigenous person of Assam is hence forward banned and the power of the Deputy Commissioner to accord previous sanction of such transfer to a non-cultivator as was authorized under Executive Instructions no. 6 hereby stands withdrawn.

3.15.2 (Clause 9.2): Clause 9.2 relates to town land for which separate policy exists. Hence, this para may be deleted.

3.16. (Clause 10 of the land policy,1989): PRESERVATION OF PLACES AND ANCIENT MOMUMENTS TANKS ETC.

3.16.1 (Clause 10.1): The places of ancient monuments, archaeological interests which include ancient structures/images/resources as also those of historical interests and importance like tanks, raised fortified/protected structures (such as Momai Kata Garh, Numaligarh), hills or any other similar places or archaeological and historical interests, shall be preserved, protected and promoted as study/research

centers and shall also be so upgraded, wherever such up-gradation or promotion is possible, as tourism destinations and centers of excellence and shall not be allotted to any individual or any private organization for any construction thereon or any other use thereof, nor shall any Government construction or construction by any Government organization, be permitted. Besides, such places should be kept strictly free from any encroachment by organizing strict vigilance with adequate manpower and any one so encroaching upon such places or any part thereof shall be summarily evicted. Nor shall any allotment or settlement of such land be made with any individuals or any public or private establishments/organizations.

3.17. (Clause 11 of the land policy,1989): CONVERSION OF ANNUAL LEASE INTO PERIODIC

3.17.1 (Clause 11.1): Henceforth, the practice/system of granting annual patta should be done away with. The annual pattas already issued should be expeditiously converted into periodic khiraj patta by launching a special drive for the purpose subject to observance of all the provisions and fulfilment of conditions laid down in of Rule 105 of the Assam Land Record Manual, Rule 23 of the ALRR, 1886 and Government instructions in force, conversion of existing annual lease into periodic shall be granted expeditiously. Henceforth, there will be no automatic conversion of Annual leases.

3.17.2: A new sub-clause should be inserted after clause 11.1 to be numbered as 11.1 (a) - In case of eligible indigenous allotment certificate holders of rural areas (outside the area of 15 kms of municipal town/revenue town and outside the area of 50 kms from Guwahati Municipal Corporation (GMC)) for residential purpose and ordinary cultivation only, if found in continuous possession of the land in question for more than 3 years and used for the purpose for which the land was allotted, such allotment certificate holders, if any, should be straight away granted periodic patta subject to eligibility as laid down in the relevant rules/regulations. No fee shall be leviable from the beneficiary/pattadars for this purpose.

3.17.3 (Clause 11.2): The figures of 3 kms and 10 kms appearing in clause 11.2 (i) & (ii) should be change to 15 kms and 50 kms respectively.

3.17.4 [Clause 11.2 (iii)] : Should be retained as it is.

3.17.5 (Clause 11.3): Add the words “in rural areas” after the word “periodic” and before the word “will” appearing in second line.

(i) Should be retained as it is.

(ii) The figures of 3 kms and 10 kms appearing in clause 11.3 (ii) should be changed to 15 kms and 50 kms respectively. Other provisions may not change.

(Besides, the following proviso should be inserted in the Clause)

“Provided that the land so converted into periodic patta land vide clause 11.2 and 11.3 above shall not be permitted to be transferred *i.e.* sold, mortgaged, leased, gifted, exchanged etc. to any other person whether agriculturist or non-agriculturist until completion of a minimum period of 10 years after such conversion.”

Provided further that the indigenous identity of the new patta holders should be subjected to proper verification and conversion of land under the above clauses shall not be made without the indigenous identity of the patta holder was established after proper verification.

3.17.6 (Clause 11.4): The figures of 22.86 metres (75 feet) and 15.24 metres (50 feet) appearing in clause 11.4 should be changed to 100 feet and 75 feet respectively.

3.18. (Clause 12 of the land policy,1989): CADASTRAL SURVEY AND NON-CADASTRAL AREAS

3.18.1 (Clause 12.1): Cadastral Survey in non-cadastral areas found fit for Cadastral Survey will be taken by application of modern technology for the purpose of preparation of Land Records expeditiously by November'2020, if necessary outsourcing manpower/equipment from competent professional organization.

(Reportedly there are as many as 7/8 (seven/eight) revenue villages scattered within greater Guwahati without cadastral survey being conducted. As this has serious implication, such survey in those 7/8 villages should be conducted immediately and completed expeditiously by not later than December'2018 for taking up re-settlement operation immediately therein.)

3.18.2: A new sub-clause should be inserted after clause 12.1 to be numbered as 12.1 (a) - It is also reported that many illegal villages in an around the areas/districts predominantly under encroachment by illegal migrants have come up without the notice of the Government. As there is a procedure laid down in **Section 2 (ii) of Assam Revenue Reassessment Act of 1936**, for setting up a new village and such illegal villages have not fulfilled these conditions, these newly established illegal villages should be demolished and the land occupied by these illegal villagers be vacated and treated as surplus land available for distribution amongst the eligible landless indigenous persons of Assam.

3.19. (Clause 13 of the land policy,1989): MUTATION AND PARTITION

3.19.1 (Clause 13.1): As provided in section 50 of the ALRR,1886, every proprietor/joint proprietor or land holder succeeding to any estate, or a share in any estate, whether by transfer or inheritance and obtaining possession of the same, though required to apply to the Deputy Commissioner for registration of his name as such proprietor/land holder etc., the Deputy Commissioner shall, without waiting for the purchaser to apply for mutation, himself take the initiative to collect and note the information of such transfers, if any, by sending an assistant of his office routinely to the registration section until the digital system is fully implemented , so that in cases of all legal transfers, the mutation can be done *suo-moto*, to avoid delay.

3.19.1.1: Government of Assam should also make serious efforts to implement the digital system all throughout the State making it applicable to all kinds of settlement of land at the earliest. The system of monitoring and supervision should be revitalized and if necessary, restructured so that all mutation cases at the level of the Circle office are disposed of completely within two months. In order to discourage delay behind the stipulated time, there should be setup a Regular Monitoring Cell at the Government level for regular monitoring of all delayed mutation cases and where necessary, the unsatisfactory works of the concerned Circle Officer should be recorded in his/her ACR.

3.19.2 (Clause 13.2): Henceforth, partition of an estate should be only perfect partition and imperfect partition should be abolished. Every single land holder/proprietor should be supplied copy of the Record of Right (*i.e. copy of Jamabandi*) within three months from the date of partition. The question of granting

patta as is usually granted in regular re-settlement operation may also be considered outside the re-settlement operation time after the partition is affected. Similarly, every transferee of periodic patta land should be granted a copy of the Record of Right (*i.e. copy of Jamabandi*) within two months from the date of mutation.

Similarly, permission for sale of land wherever it is required to be obtained, should be granted expeditiously but not in any case later than 30 days from the date of application made by an applicant. Such application should be entered in a register to be maintained by Deputy Commissioner, (if not already done) with individual registration number assigned and supplied to each applicant until the digital system can be made fully applicable. In both cases the principle of first in first out (*FIFO*) should be strictly adhered to.

3.20. (Clause 14 of the land policy, 1989): SETTLEMENT AND RESERVATION OF LAND IN TOWNS

3.20.1 (Clause 14.1): Should be retained as it is subject to the Caveat to be provided as given below-

“Provided that such land which now forms part of the Municipal Corporation or town land by reason of extension of the town or municipal area by a Government notification, shall be disposed off in accordance with the legal provisions applicable to such land as on the date prior to issue of the said notification including the area as town land.”

3.20.2 (Clause 14.2): Should be retained as it is.

3.20.3 (Clause 14.3): Should be retained as it is.

3.20.4 [Clause 14.3.(i)]: Should be retained as it is.

3.20.5 [Clause 14.3.(ii)]: Should be redrafted as per the Gauhati High Court judgment delivered in W.P.(c) No. 530/2011 Jeewan Madhuri Neog Bora –vs- State of Assam.

3.20.6 [Clause 14.3.(iii)]: Should be retained as it is.

3.20.7 [Clause 14.3.(iv)]: Should be re-drafted as per the Gauhati High Court judgment delivered in W.P.(c) No. 530/2011 Jeewan Madhuri Neog Bora –vs- State of Assam.

3.20.8 [Clause 14.3.(v)]: The Committee finds no guidelines to determine as to who constitutes “other indigenous person”. There is only one class of Indigenous landless persons. In absence of definition of “other indigenous person”, the clause “other indigenous person” is deemed unnecessary by this Committee.

3.20.9 (Clause 14.4): The distinction between the two classes of cases under ULC is not clear as such the Committee can't make any specific recommendation. However, it may be redrafted in the light of the circular no. RRT.5/98/ULC/80 dtd. 15/06/2004 or such other rules/laws as may be relevant.

3.20.10 (Clause 14.5): After the word “Expediently” at the end of the clause, add the following:

“Provided that, the definition of eligible persons for getting lands acquired under this Act should be specifically and clearly made and that such eligible persons should include only indigenous persons of Assam and further, that in making allotment/settlement of such land acquired under the Act, preference should be given to (i) flood and erosion affected indigenous cultivator/people (ii) indigenous

persons rendered landless due to acquisition of their land for public purpose and (iii) indigenous tribal/scheduled cast people”.

“Provided further that, the same principle in making allotment/settlement of land acquired under this Act should be applied in case of all the religious and charitable institutions situated outside the cities and towns *i.e.* scattered in the rural areas all throughout the State.”

3.20.11 (Clause 14.6): After the words “for homestead purpose” at the end of the clause, add the following:

“Provided that, (i) such allottees should be confined only to indigenous landless persons having no land for homestead purpose”

(ii) In cases where large blocks of land were allotted to/settled with persons for setting up of industry or commercial houses and such lands have not been used for such purposes that is to say for the purposes for which they were granted, such unused lands should be reverted to the Government as per prescribed procedure/rules/regulations/executive instructions for distribution amongst the landless indigenous people of Assam in the manner described in clause 14.5.

3.20.12 (Clause 14.7): This clause should be re-written as follows:

The land acquired under the aforesaid three Acts, but not under occupation of previously recorded tenants will be treated as ordinary Government land and will be disposed of by granting settlement as per present Land Policy/ present Settlement Rules subject to payment of due/ reasonable premium and fulfilment of eligibility criteria as mentioned in 14.5.

3.20.13 (Clause 14.8): Add the following lines after clause 14.8

“Provided that while keeping such blocks of land reserved and free from encroachment for the purpose of construction of Government offices, buildings, institutions as mentioned in clause 14.8 above, attention should be paid to maintaining ecological balance and harmony.”

3.20.14 (Clause 14.9): Should be retained as it is.

3.21. (Clause 15 of the land policy, 1989): ENCROACHMENT AND EVICTION

3.21.1 (Clause 15): Add a new clause as 15.1

“In order to tackle the growing menace of unassailable organized encroachment on all classes of land including char land, protected Belt and Block land, temple/wakf land, reserved forest, un-classed forest, khas land, road side and river side reserve land, VGR and PGR, hills and water bodies etc. and also for assessing and identifying the quantum of total land under encroachment in the State, a massive land survey whether cadastral/conventional relating to encroachment by various classes of encroachers should be conducted and a separate Directorate or Joint Directorate should be created for taking such appropriate measures including eviction operations, as may be necessary for the purpose of clearing such encroachments so that the land so cleared may be made available for distribution amongst the indigenous landless people of Assam or for implementing growth oriented, socio-economic project in the arena of sports, culture, education, industrial complexes or for creating environmental friendly open areas.

3.21.2 (Clause 15.1): Clause 15.1 may be numbered as 15.2

“Provided that the land record staff should in course of their field visits immediately bring such cases of encroachment within his lats or areas to the notice of his immediate superior authority who in term shall report it to the Circle officer and by the Circle Officer to the Deputy Commissioner so that huge number of encroachment cases can't accumulate making encroachment a Himalayan task. In order to ensure that, a full proof monitoring system aided and control by digitization method should be created.”

3.22. (Clause 16 of the land policy,1989): SPECIAL PROVISIONS FOR SCHEDULED CASTES AND SCHEDULED TRIBES FAMILIES

3.22.1 (Clause 16.1): The word “indigenous” should be inserted after the word “the” and before the word “landless” appearing in the first line of clause 16.1.

3.22.2 (Clause16.2): Add the following after the word “usual” appearing at the end of clause 16.2- “except where such person falls within the creamy layer”

3.22.3 (Clause16.3): Clause 16.3 should be deleted as it will encourage unauthorized occupation of Government land without prior permission and going through the prescribe procedure. Instead such persons schedule caste or schedule tribe may be granted lands expeditiously in accordance with law.

3.23. (Clause 17 of the land policy,1989): EXEMPTION OF LAND REVENUE

3.23.1 (Clause 17.1): Should be retained as it is. However, the Committee feels that, necessary record of rights that are issuable under the Gramdan Act should be expeditiously granted to the community of the gramdani village.

3.24. (Clause 18 of the land policy,1989): JOINT PATTAS IN THE NAME OF SPOUSE

3.24.1 (Clause 18.1): Should be retained as it is.

3.25. (Clause 19 of the land policy,1989): LAND ADVISORY COMMITTEES

3.25.1 (Clause 19.1): Add the following at the end of the clause 19.1

“ This land advisory committee shall not have any jurisdiction on any of the land matters pertaining to the Gauhati Municipal Corporation area which has been entrusted to a separate committee vide clause 19.2”

3.25.2 (Clause 19.2): Should be retained as it is.

Note:

1. Those clauses of the Land Policy of Assam, 1989 which have not found mentioned in our comments are deemed, in our view, to need no changes and therefore recommended for their retention.
2. There are certain crucial issues which have not been dealt with / not dealt with adequately in the existing Land Policy of Assam, 1989. The Committee has discussed all these issues in part-II of the modified Land Policy.

3. **Copy of the Land Policy, 1989 has been enclosed as Annexure-VI for convenience and ready reference.**

Part-II

(Comment on the Draft Land Policy, 2016 (The land Policy in Part II)

3.26. The Committee feels happy to say that a new Draft Land Policy (2016) prepared by the Government of Assam was submitted to the Committee for its comments thereon. On a close scrutiny of the Draft Land Policy, 2016, the Committee found that the new Draft Policy seeks to introduce quite a number of progressive and innovative ideas in several crucial areas. This no doubt marks and reflects a marked improvement over the provisions made in the Land Policy of 1989, viewed from the angles of progressive land administration, protection of the land rights of the indigenous people and reasonable provisions made for the benefits and welfare of the community and the posterity. The Committee was glad to make its comments on the Draft Policy, 2016 covering all the 8 Chapters, clause by clause and has incorporated them as Part-II of Chapter-3 of our Report, as follows:

Chapter-1

INTRODUCTION

The Committee feels that in principle the provision sought to be made in Chapter -1 is adoptable. However, it leads the details to be considered by the Government.

Chapter-2

LAND ADMINISTRATION AND PROPER MAINTENANCE OF LAND RECORDS

Para-2 which recognizes the need for review of existing structure and effecting the structural and institutional reforms is a refreshing provision.

Para-2.1 upgradation of ASSTC as AILMG:

Up gradation of ASSTC as AILMG, which envisages, capacity building programme and facilitate research and impact assessment studies etc. is expected to sufficiently improve the quality of land management and related issues as such the Committee recommends to be adopted.

Para-2.2 & 2.3: Reorganization of the Department, Directorates and Offices under the Department/Creation of special divisions etc.:

The Committee also feels that in order to improve the updating of land records, prevent encroachment on land, increase revenue and ensure effective and uniform management all throughout the State, (a) The Directorate of Land Records should be armed with at least three special divisions, one of which may be at Jorhat, other at Bongaigaon for western Assam and the third one at Silchar for Barak Valley. (b) there should be a separate Directorate for eviction of various classes of encroachments on lands in the State aided and supported by a Special Task Force consisting of state police and

paramilitary forces with its divisions at Jorhat, Silchar and Bongaigaon. (c) for facilitating smooth land management and prompt updating of land records, the Directorate of Land Records should have at least three divisions each headed by a Joint Director at Jorhat, Bongaigaon and Silchar. (d) a new Directorate to be named as Directorate of Law Enforcement Monitoring of Eviction on Encroachment On Government lands and up-gradation of land records should be created at Guwahati so as to ensure strict enforcement of law, monitor the implementation of the legal provisions/ Government decision (e) the system of digitization of land records and other aspects of land management/administration should be introduced within fixed time- frame as suggested in appropriate paras.

Para 2.4: It is a good provision. However, (i) its name as has been subsequently changed may be adopted. (ii) Since it is centrally funded, Government of Assam (GOA) should take its full advantage and (iii) its organizational infrastructure should be utilized and implemented fully for web-enabled, maintenance of land records, digitization of land records etc.

Para 2.7 : Preservation of land for community purposes and future generations: Land being a fixed and the scarcest natural resource; it entails most cautious, conservative and economical use, if only to derive optimal social benefits from it In the background of high infiltration of suspected Bangladeshis and the explosive growth of population in several districts of Assam. So, allotment or settlement of Government lands should be strictly limited to only the indigenous people of Assam. Allocation of land for various purposes considering both present and future generations need imaginative disposal. The Committee feels that of the total habitable/cultivable land of Assam, at least 50% should be reserved for the community use of the present generation and the future generation while the remaining 50% should be reserved for allotment/settlement with the genuine landless indigenous people of Assam. Allotment /settlement of land, particularly agricultural land with non-indigenous Indian citizen should be banned. However, there will be no bar for acquisition of land by such non-indigenous Indian citizens subject to reasonable restrictions placed by law in appropriate cases, *example given:* (restriction on transfer of agricultural land for non-agricultural purposes, transfer of land of tribal belts/blocks to non-tribal/non-eligible class of persons, allotment/ settlement of land on the hills etc) To give a breakup of the land to be reserved for the community use, the Committee suggests as follows:

- (a) 10% of the land for VGR/PGR
- (b) 10% of the land for creating community facilities
- (c) 10% of the total land for creating industrial infrastructure
- (d) 10% of the total land for afforestation and agro-forestry and
- (e) 10% of the total land for emerging generations as open space
- (f) The remaining 50% of the total land shall be used to fulfill the needs of the present generation

Para 2.8: It is a well come move.

Para 2.9: The Committee feels that the name “Assam Revenue Service” instead of “Special Administrative Service” will be more appropriate for exclusive and effective land revenue administration in the State. The services of the Officers borne on this cadre should be exclusively utilized for doing revenue works only and for no other purposes.

The Committee feels that the other provisions sought to be made should meet the aspirations of the indigenous people and achieve the end of effective land management.

Para 2.11: Tenure of Patta: It is only good that the tenure of periodic patta is sought to be increased to 30 years instead of the existing 20 years. It should be uniformly applied in case of town land or agricultural land.

The subsequent lines “beginning with however” and ending with “changing situation” should be deleted.

Chapter-3

ALLOTMENT AND SETTLEMENT OF GOVERNMENT LAND FOR AGRICULTURE AND HOMESTEAD PURPOSE

Para 3.1.7: The person entitled to land must invariably be an indigenous person and non-citizens or non-indigenous Indian citizen shall outside its purview except in case of landless Ex-serviceman.

Para 3.1.9: The words “settlement holders” appearing in the second line of Para 3.1.9 should be replaced by “new land holders”.

The provision made at Para 3.1.9 relating to taking back of the land settled with landless indigenous persons for its not being utilized for the specified purpose should be fixed at 3 years.

Para 3.1.12: The following words should be added after the last line of Para 3.1.12

“ The Government may consider if (i) the Government lands under encroachment is cleared of encroachment by eviction and (ii) lands reverted to Government for not being utilized for the purpose given in the settlement order should also be considered as ‘other sources’ which can be added to the available waste land and untenanted ceiling surplus land subject to condition that these lands are fit for allotment/settlement, distribution among the indigenous landless people of Assam.”

Para 3.2: The following provisions may be added to Para 3.2 (Char areas at pg.15)

“Provided that before considering allotment/settlement of land in the char area, an in-depth inquiry by senior Revenue Officer should be made as to the origin, identity, citizenship and indigeneity of such person.”

In view of the aforesaid provision, the sentence beginning with “but...” and ending with “the State” may be deleted.

Para 3.3.3:

Explanation

The word “possession” appearing in the fourth line should be replaced by the word “profession”

Para 3.9.3: The respective distances from the GMC/other municipal and revenue town should be modified as indicated in *para 11.1(a)* above.

Chapter-4

**ALLOTMENT AND SETTLEMENT OF GOVERNMENT LAND FOR PURPOSES OTHER THAN
AGRICULTURE AND HOMESTEAD PURPOSE**

Para 4.1: (i) The word “ordinarily” appearing in the first line should be deleted.

(ii) There should be separate zone created for establishment of industry, hospital, construction of public institutions, office, educational institution etc. in land other than arable land to be followed as a matter of policy as far as possible and should also be incorporated in the relevant land law..

Para 4.1(a): A new clause should be inserted stating that the Act of 2015 providing for reclassification of agricultural land on certain stipulated condition should be repealed as the provisions made therein shall eventually render the indigenous cultivators of Assam into a landless class. The Committee will explain the reasons for such recommendations in the appropriate Chapter.

Para 4.2.1 & 4.2.2: Should be deleted.

The Committee feels that the brick kilns/factory caused the maximum damage to the agricultural land. In order to meet the demand for bricks substitute materials in the form of cement concrete blocks should be encourage to be used. In any case, the brick manufacturers should be permitted to establish brick factories on non-agricultural private lands to be bought by them for the purpose. This has been sufficiently commented upon in the existing land Policy, 1989

Para 4.3.1: In this connection the observation made by the committee separately under para 1.10(a) above should be referred to. The suggestion made therein may be added to these provisions under this chapter. Only those who are indigenous unemployed youths should be considered for allotment/settlement of land for taking to tea cultivation as a profession.

Chapter-5

LAND REFORMS

Para 5.1. : Disposal of land acquired under the Assam Fixation of Ceiling on Land Holdings Act, 1956 (as amended) and under the Assam State Acquisition of Land Belonging to Religious or Charitable Institutions of Public Nature Act, 1959 (as amended) :

Para 5.1.3: It is all right subject to (i) the limit of 4+1=5 Bighas per family. (ii) the allottee must be an indigenous cultivator.

Explanation: “Family” for this purpose shall include the Husband, the Wife and the unmarried sons and daughters and shall exclude married sons and daughters.

Para 5.1.6: The words “or be reserved as open spaces/construction of sports complex/play ground/industrial growth complexes subject to environmental harmony” should be added at the end of the Clause.

Para 5.1.7: The following Proviso should be added to the clause at its end:

“Provided that allotment to/settlement with such land should be strictly restricted to only indigenous persons of Assam”.

Para 5.1.8: The following two provisos should be added to the Clause.:

(a)“Provided, however, that, notwithstanding anything contained in the Assam Land and Revenue Regulation, 1886, the right of transfer of such holding shall extend only to persons belonging to the same religion as the institution in which the ownership of the land was vested before the date of notification under Section 3 of the Act.”

(b)“Provided further that, the adherence to this principle shall be applicable to all irrespective of the use to which the allottee/the settlement holder may put the land to. The Committee further recommends that, the Government should make serious endeavours to convert a certain percentage of the land so acquired from the religious and charitable institutions into Centres of Excellence under an elevated management in the interest of promoting tourism and accelerated economic growth of the State.”

Para 5.1.10: The following provisions should be added to the Clause at its end:

“Further, in order to ensure that the provisions of the Act are not violated by the erstwhile landlord or by anyone on his behalf, there shall be a Monitoring Cell attached to the Deputy Commissioner’s office to be put under the control of Sadar Circle Officer who will maintain a register and will initiate legal proceedings wherever such cases of violations are recorded in the register”.

Chapter-6

PRESERVATION AND CONSERVATION OF LAND FOR PUBLIC PURPOSES

Para 6.1.1: This Clause may be rewritten as follows:

“The term “wetland” includes all water bodies, marshy lands, ponds, tanks, cannels, streams, rivulets, swamps, beels or any other deep water- logged areas even though they may go dry for a certain period of the year. The preservation of these wetlands is of utmost importance for multifarious purposes such as preservation of environmental quality by protecting the ground water and the private and public water supply sources, controlling pollutions/maintaining ecological balance by acting as a filter for removing sediments, nutrients and other pollutants from runoff, reducing storm and flood damage by providing areas for retention and storage of water and as habitates for fish, birds and other wildlife and above all for beautification of certain appropriate water areas for building up as tourist destinations”.

In the above view, legislation for preservation and conservation of all water bodies spread all throughout the State should be urgently enacted. Alternatively the Guwahati Water Bodies (Preservation and Conservation) Act, 2008 (Assam Act No. XX of 2008) should be made applicable to all the water bodies spread in the entire State of Assam. This would inevitably warrant a comprehensive survey of all the water bodies of the State by competent agencies, if necessary, by outsourcing such agencies. It hardly needs to be mentioned that for want of effective legislation to prevent indiscriminate destruction of the beels, rivulet’s and other water bodies, there has been fast disappearance of these water bodies causing incalculable harm to the ecological balance, agricultural ambience and economic degradation.

Para 6.1.2: **Effective steps to be taken for protection, conservation, preservation and**

improvement of the water bodies of Assam: As very aptly provided in the Draft Land Policy, 2016, In view of the adverse climate change presently taking place, it is of utmost importance to take effective steps for preservation, protection, conservation and improvement of the water bodies spread all over the State, if only to check the growing adverse climate change. The following guidelines sought to be provided in the Draft Land Policy, 2016 should provide an ideal plank for the purpose-

- i. GTS mapping of the wetlands and detailed study of non-spatial aspects.
- ii. Incorporating wetland management into local watershed plans.
- iii. Expanding wetland buffers to connect wetlands with critical habitats.
- iv. Creating vegetative buffer around the wetlands.
- v. Erosion and Sediment Control through perimeter control practices along wetland buffer boundaries, stabilization of upland boundaries, use of site fingerprinting or construction phasing etc.
- vi. Containing water pollution Prohibiting the use of natural wetlands for storm-water treatment, restricting discharges of untreated storm-water to natural wetlands, discouraging installation of storm-water treatment practices within wetland boundaries and discouraging constrictions at wetland outlets.
- vii. Containing Non-Storm-water discharges through restricting outfalls to wetlands, prohibiting dumping in wetlands and their buffer etc.
- viii. Ensuring watershed Stewardship through incorporating wetlands into watershed education programs, posting signs to identify wetlands, buffers, and wetland drainage area boundaries, establishing volunteer wetland monitoring and adoption programs, and encouraging wetland landowner stewardship.
- ix. The Committee views with concern that the famous “Deepor Beel” which is internationally recognized and has been included as one of the “Ramsar Sites” under the Ramsar Convention has been allowed to be degraded and dead due to wanton encroachments and conversion into a massive garbage depositing centre with high incidence of pollution and also partly cultivated land. As a result, the Beel has not only ceased to be a famous habitat of the erstwhile thick fish population but has also ceased to be a famous habitat of the migratory birds once making their regular annual visits. The Committee therefore recommends that the Government of Assam involves all the concerned departments to renovate/reclaim the dying Deepor Beel, evict all encroachments with concrete structure and transform and translate it into a famous Ramsar Sites. Though the sprawling Beel has already been declared as a Ramsar Sites its implementation through a comprehensive project is still awaited. The Government also must take immediate steps to ban deposit of garbage in and around the Deepor Beel areas, evict all encroachments in the entire Deepor Beel areas, reclaim/renovate the entire areas filled up with mountains of garbage including industrial effluents, so as to transform the entire length and breadth of the area into a site of Beautiful Tourist Destination/Ramsar site/ A centre for beauty and excellence.
- x. The Government should also take effective steps to create lake areas wherever possible in the State with all modern facilities without disturbing environmental climate like England and Switzerland. This will certainly augment/boost up the development of the tourism and economic growth in the entire State which will enable the Government to earn substantial revenue.

Para 6.2.1: Due to indiscriminate de-reservation of the VGRs/PGRs most of the villages of Assam have

found it difficult to graze their cattle which has affected adversely agricultural production as a whole and has also pushed the indigenous rural people to eschew agriculture as a profession. The Committee therefore recommends that except in very exceptional cases in which it requires to be de-reserved under the direction/ruling of the court of law, Government has to put a ban on fresh de-reservation on existing VGRs and PGRs. The Government should also ensure that in no case the land required to be reserved for VGR and PGR falls below the level of 5% of the total area of the village in question as has been as is required under direction of the Supreme Court of India.

Para 6.2.3: The following words should be added at the end of the Clause, that is, after the words "Civil Appeal No. 1132 of 2011 @SLP(C) No. 3109/2011"

"and fulproof arrangements made to ensure full implementation of the scheme in compliance with the order of the Hon'ble Supreme Court."

Para 6.2.6: Specific penal provisions may be inserted making the offender liable for imprisonment of 3 years and also to a fine of Rs. 10,000/-.

Para 6.3.4: Add a Proviso as "Provided that the percentage of land sought to be preserved in the villages should also include the percentage of land required to be reserved for future generations". In other words there should be a specified percentage of land reserved for future generations."

Para 6.4.1: Add the following to the Clause"

vi. Further, settlement/allotment on hills/hillock/hill slopes is henceforth banned".

Para 6.5.2: Add the following sentence at the end: " The same principle shall be applied to areas of river bank/open space all over the State"

Para 6.6: Preservation of places of historical importance and ancient monument tanks etc. :
Rewrite the last sentences as follows:

"Such places including satra land/temple land/wakf land shall be kept free from encroachment by the Deputy Commissioner".

Chapter-7

PROTECTION OF LAND IN TRIBAL BELTS AND BLOCKS

In cases where transfer of land from tribal to non-tribal person is allowed with previous permission of the Deputy Commissioner--

The power given to the Deputy Commissioner for according previous permission for transfer of land from a tribal to a non-tribal person under Chapter-X of ALRR, 1886, if any exists, should be withdrawn even as taking extreme care to stick to the conditions.

Part-III

Crucial Issues not highlighted adequately in or missing from the Land policy, 1989/ Changes suggested in the Land Policy, 1989

3.27. The Committee has taken note of the fact that an overwhelming majority of the common or general public are of the view that the land policy which was adopted in three decades ago has outlived its utility in the backdrop of the sea changes undergone in the socio-economic and demographic domains. They even consider the outdated Policy as a drag to the progressive management of land and revenue administration. While this trend of thoughts is certainly not without some basis, there is equally an element of exaggeration in such thinking. In order to bring the relevant facts in their actual perspective, the Committee has considered it propitious to throw some more lights on the following fundamental issues.

3.28. Factors Causing Changes in the Socio-Economic Arena: As aptly described in the Preamble to the Land Policy, 1989, combination of a host of socio-economic factors like growth of population due to natural growth and unabated infiltration principally from across the Indo-Bangladesh International Borders, industrialization and urbanization , acquisition of land for development of various public (both Central and State Government) Projects, private development schemes and construction of roads, dykes etc have aggravated the scarcity of land with consequent growing adverse land: man ratio. Besides, the natural calamities like flood, erosion and siltation, unchecked encroachment of interstate border lands by Assam's neighbouring States including Nagaland, Meghalaya and Arunachal, have not only gulped huge stretches of Assam's land but also have, in addition to extinguishing the land rights of the indigenous people of Assam inhabiting the extensive stretches of land along the borders, destroyed the security to their life and property. And, unabated, organized encroachments and setting up of overnight illegal villages by the invading armies of illegal Bangladeshis on all classes of land including Government khas land, all kinds of reserved lands, Satra or protected Belt/Block lands by the illegal/suspected Bangladeshis, have threatened to swamp the very identity of the indigenous people of Assam, let alone their land rights. In this unprecedented crisis situation, Government has to re-orient its mindset and take special measures to meet such special or unprecedented situation.

3.29. Silent Transfer of Agricultural Land to the Trading and Industrial Community: Transfer of land from indigenous to non-indigenous people of Assam and from poverty ridden/ economically distressed agriculturists to the rich non-agriculturists, mainly to traders and industrialists by way of sale has also been taking place methodically and collusively over the last few decades, as a result of which silent land transfer from the former to the latter is going on, threatening the indigenous people to be soon reduced to a landless class of people. Sale or transfer of land in other forms is also going on even to suspected Bangladeshis/ persons of doubtful origin. Any scheme of protecting the land rights of the indigenous people makes it inescapably imperative for the Government of Assam to adopt such a Land Policy and more particularly to provide and enforce such legal and administrative measures as will remedy and reverse the aforesaid dangerous trends.

3.30. Factors causing Transfer of Land from the Indigenous people of Assam: Transfer of land from indigenous to non-indigenous and from poverty ridden/ economically distressed agriculturists to the rich non-agriculturists, mainly to traders and industrialists by way of sale and mortgage have also been taking place methodically and collusively over the last few decades, as a result of which silent land transfer process from the former to the latter is going on, threatening the indigenous people to be soon reduced to a landless class of people. Sale or transfer of land in other forms is also going on even to suspected Bangladeshis/ persons of doubtful origin.

3.31. Identifying some of the causes of Transfer and Measures Recommended by the Committee: With this end in view, the New Land Policy should (i) put a total ban on transfer of land in any form from agriculturists to non-agriculturists and from indigenous to non-indigenous class of people. (ii) The Assam Alienation of Land (Regulation) Act, 1980 should be suitably amended so as to (a) ban sale or transfer of land to non-indigenous people and (ii) Ban on sale or otherwise transfer of land to a foreigner and withdraw the authority of the Deputy Commissioner for giving permission for sale or transfer of land in any other form to a foreigner/ non-citizen as such permission will negate the purpose of the Act (iii) Ban on registration of such illegal transfer by the registering officers by providing for close co-ordination / integration between the Circle officer and the registration office (iv) provide for effective enforcement of the ban on sale or otherwise transfer of land to non-citizens envisaged in Section 4 of the Act by introducing a system of Monitoring and control mechanism (v) (vi) cancellation of illegal transfer of land and re-distribution of the same amongst the indigenous landless people of Assam and (vi) Banning the middlemen/ broker/ land mafia on any kind of land dealing and provide for harsh penalty/punishment to the middlemen/ broker/ land grabber/ mafia, guilty or delinquent officials or buyers (vii) Launch de-siltation programme and provide alternative lands to the affected persons.

3.32. Eviction from all encroached lands including Government khas land, forest reserves/ roadside reserved land/ water bodies, hills or foothills of hills, riverside , VGR/ PGR , Protected Belt an Blocks, Satra/ Temple /Wakf lands after observing the necessary procedural formalities,, extensive char/Chapori lands etc, of all encroachers, whether citizens or foreigners, particularly the foreigners.

3.33. Detection and deportation of the illegal Bangladeshis who have engulfed the state and like swarms of locust to invade all class of land and perpetrate depredations to the indigenous persons.

3.34. Seal off the open Indo-Bangladesh International Borders so as to prevent fresh infiltration through the open borders, and re-organize, re-structure and re-strengthen the international borders covering both land and water points.

3.35. Protecting the lands from erosion by taking appropriate anti-erosion measures and construction of effective embankments to prevent flood and erosion.

3.36. Programmes of reforms in appropriate areas designed to cause overall improvement in the agricultural sector/ rural economy have to be launched urgently so as to upgrade agriculture to a sustainable profession and check land sale by the economically degraded cultivators oppressed by unmitigated wants, by creating adequate and appropriate agricultural infrastructure like intensive

cultivation bolstered by double cropping, irrigational facilities, road and power connectivity, high yielding variety of seeds, easy bank loans, crop insurance, organized markets/mandis, composite cultivation government oriented procurement supports by way of price support, subsidies in appropriate cases etc.

3.37. Definition of Land to be given in the land Policy: Definition of “land “is the foundation and a pre-requisite for adopting any effective Land Policy. However, the Land Policy of 1989 does not define “Land” which should be done now. The Committee recommends that the definition of land should be holistic or broad so as to include not only the surface of the soil but also to include the sub-surface materials/ deposits and covers all properties or assets which stand on/ run through or are firmly attached to the land surface. Viewed in this perspective, land should be defined as “Land means and includes the topography/ surface of the soil, trees, water resources/ water bodies and anything which is firmly attached to land such as minerals”. Such a broad definition is essential in the context of scientific and holistic management of land.

3.38. Basic Features of Assam’s Rural Economy : It is now widely recognized that in a country like India with an overwhelmingly high percentage of rural population, increased population pressure on land and fragmentation of land in successive generations, the man: land ratio has been deteriorating and the average size of agricultural land holdings has become increasingly uneconomic to reduce agriculture profession to an unsustainable profession and eventually reduce the indigenous cultivating class of people to a landless people. Therefore, transfer of agricultural land for non agricultural purposes and from indigenous agriculturists to non-indigenous Indian citizens should henceforth be banned as a matter of policy. So far, only a Circular issued in 1919 by the British authorities has been relied upon to restrict this injurious practice. Interestingly, both the Land Policy, 1989 and the Assam Land Revenue Regulation (ALRR), 1886 are silent on this vital issue. **In order to add a legal force to the said circular and render all transfers of agricultural land for non-agricultural purposes illegal and actionable wrongs, the ban on such undesirable transfer should form part of both the new Land Policy and the amended ALRR, 1886.** The Committee suggests adoption of suitable provisions accordingly.

3.39. Repeal of the Assam Agricultural Land (Regulation of Re-classification and Transfer for Non-Agricultural Purpose) Act, 2015: The Committee has given a serious thought to the question of reclassification of agricultural land as a non-agricultural land on the ground of its not being cultivated during the past ten years or on ground of its becoming unfit for agriculture under this Act. This reclassification is a prelude to, inspires and paves the way for transferring agricultural land for non-agricultural purposes on the basis of an arbitrary, non-transparent decision taken by the Deputy Commissioner of the district. The Committee is convinced, that the provisions made in the Assam Agricultural Land (Regulation of Reclassification and Transfer For Non-Agricultural Purpose) Act, 2015 is an obstruction to check transfer of agricultural land for non-agricultural purposes and shall not only clash with and be against the policy of ban on transfer of agricultural land for non-agricultural purposes but also will pave the way to reduce the indigent indigenous cultivators to a landless class of people. **As it will highly be detrimental to the indigenous rural people, the Committee recommends that this legislation should be repealed lock, stock and barrel.** With high incidence of flood and erosion of the turbulent Brahmaputra and the Barak rivers and their tributaries, annually sizeable stretches of cultivable lands are silted and rendered unfit for cultivation. **Moreover, with the rising costs of cultivation on the one hand and high risks to cultivation and the crops in the wake of flood , locusts, and**

elephant depredations of late, agriculture has gradually become an unsustainable profession and under pressure of crushing poverty, marginal farmers of the rural Assam have been pushed to abandon the cultivable fields. The Committee is sad to note this Act of 2015 gives a clear indication that the Act was passed wholly to favour and benefit the rich trading and industrial class who have taken to make speculative investments in lands both in the town and the rural areas. For instance, in Section 8 (1) it says that “If any agricultural land mentioned under Sub-section (1) of Section 4 is put to non-agricultural purpose **without obtaining the permission as required under clause (i) of section 3, the land shall be deemed to have been reclassified in to non-agricultural purpose and upon such deemed reclassification, the Deputy Commissioner shall impose and realize a fine equal to two times the Reclassification Premium**” This simply and clearly means that in the matter of reclassification of agricultural land to non-agricultural one, attractive premium has been put on violation of law and rules. What could be more detrimental to the survival of the indigenous cultivators?

3.40. Another crucial aspect which should not be lost sight of is that when an agricultural plot of land is transferred for non-agricultural use and the buyer sets up industrial unit in the land, it builds the path of causing incalculable harms to the neighbouring agricultural plots damaging not only the crop but also rendering those neighbouring plots unfit for cultivation by virtue of deposits of industrial effluents and causing pollution. It may be recalled that the proposed Central land Acquisition Bill, 2014 sponsored by the Government of India had provided for previous consent of 70/ 80 % of the owners of the adjacent plots in the event of acquisition of land for non-agricultural public purposes. The idea of putting such hurdles was to make the acquisition of agricultural land stiffer and protect the interests of the agricultural land owner. Therefore, in the interest of protecting the lands and the land rights of the indigenous people of Assam, the Committee recommends that this Act should be repealed.

3.41. Land Grabbing as a Menace: Over the past several decades, a dangerous trend in the form of organized grabbing of land by certain anti-social land mafia in both rural and town areas including the Metro city of Guwahati has become a disturbing development in the arena of both administration of land and enjoyment of land rights by the land holders, much to the security hazards of the land owners. Land grabber is a person or a group of persons who occupy or attempt to occupy with or without the use of, threat, intimidation and deceit, land over which he has or they have no ownership or title or legal physical possession and also includes any person who gives financial aid to any person or group of persons for taking up such illegal possession of others' land. To arrest this dangerous trend and give relief to the victims of such illegal threats or acts, the Government of Assam has enacted the Assam Land Grabbing (Prohibition) Act, 2010 and has also passed rules there under with penal provisions to these land mafias. However, these illegal activities are going on with no relief to the suffering public despite the enactment due mainly to lack of adequate law enforcement machinery of the government of Assam. **It is, therefore, absolutely necessary to create a special Anti-Land Grabbing Special Squad/ Special Task Force to arrest this dangerous trend and remedy this growing menace.**

3.42. Full Enforcement of the Land Reforms Measures Needed: Land reforms measures had started with the appointment of the Agrarian Reforms Committee with Shri J.C. Kumarappa as its Chairman. The Committee had examined certain vital issues connected with land reforms and submitted its report in 1949. The main recommendations of the Committee were (i) Elimination of exploitation of one class by another (ii) Inculcating in the minds of the farmers the sense of self- assertion (iii) abolition

intermediaries between the State and the actual tillers of the land and (iv) prohibition of subletting of land except in the case of widows, minors and other disabled persons.

In pursuance of this policy, several legislations had been enacted in Assam so as to prevent concentration of land in the hands of the Zamindars, distribution of land amongst the indigenous landless persons by acquiring excess land from the few hands and optimise the production of land. Assam had also enacted several reforms Act including the Assam State Acquisition of Zamindaris Act, 1951, Assam Fixation of Ceiling on Land Holdings Act, 1956, The Assam (Temporarily Settled Areas) Tenancy Act, 1971 and the Assam State Acquisition of Land Belonging to Religious or Charitable institutions of Public Nature Act, 1959 etc . However, in spite of enacting these legislations for fulfilling the above objectives, the reform measures leave much to be expected and a sizeable section of the actual tillers of the land are yet to derive the much-desired benefits even after several decades have passed off since the passing of the legislations. This is particularly true of the Assam Fixation of Ceiling on Land Holding Act, 1956 and the Assam (Temporarily Settled Areas) Tenancy Act, 1971 mainly because, the enforcement machinery of the GOA has failed to discharge its commitment to the cause of fair and prompt implementation of these legislations. Nor does the Land Policy, 1989 fix a targeted time-frame for full implementation of these reformatory measures. The Committee, therefore, recommends that the Government of Assam reviews the progress of implementation of these enactments, identifies the loopholes and lacunae and takes effective ameliorative measures to ensure full implementation of these legal provisions by re-strengthening and re-structuring the Department at various levels (Directorate, District and Sub-divisional levels) so that the objectives set forth in these in the enactments are fully achieved within a fixed time frame, say, by 31st December, 2020 and the programmes of action and the time frame for complete implementation of the said measures are incorporated in the new Land policy.

3.43. Conduct of Cadastral Survey in the Non-Cadastral Survey Areas: Before land can be allotted to or settled with any applicant for cultivable or homestead land, the area need to be traversed by cadastral survey. Such survey brings out the characteristics of land including class of land, crops suitable for cultivation, revenue assessable on the land, area of land, determination of boundaries and preparation of map of each plot or dag No. of the land and also enables accurate records to be prepared for administration of land. Unfortunately, in Assam, vast areas of land whether in towns or rural areas all throughout the State including the extensive Char areas in particular, are yet to be brought under the cadastral survey, thereby resulting in very serious implications on the State's revenue collection system. More seriously, this lapse has deprived the local indigenous eligible landless people of their right to have a due share in this class of land , a rare gift of Nature, even after 70 years of independence. This has also indirectly encouraged the land grabbers, foreigners or persons of doubtful origin and land mafias to grab and encroach vast tracts of un-surveyed government land. **The Committee, therefore, recommends that the land policy of Assam conducts a time-bound Cadastral Survey in the entire State of Assam within a fixed timeframe and clears all un-surveyed lands under encroachment by the Special Task Force as suggested above.**

3.44. Regular and Time Bound Conduct of the Resettlement Operations: Resettlement operation is a crucial part of the land administration. Such operations give the land holders, settlement holders or other stakeholders the opportunity of renewal of their Pattas/ records of rights. As the pattas are valid only for a fixed tenure of 20 or 25 years and are subject to renewal or re-validation during the re-settlement operations, it is all the more necessary that resettlement operations are conducted at fixed intervals or within the scheduled period of time having regard to the expiry period of the Patta holders'

tenure simply because non-renewal of the pattas in time, apart from the psychological stress to the stake holders, great legal difficulties are to be gone through by the stake holders. Unfortunately, and as mentioned in the Committee's Interim Report, the State Government has failed to conduct the Settlement Operations since 1964 or so, and for no obvious reasons. Such neglect to discharge its statutory liabilities displays the Government in poor light and also casts reflection on the commitment and efficacy of the Government functioning besides creating untold hardships and sufferings to the general stakeholders. The Committee, after giving serious thoughts to the matter is of the opinion and recommends that the resettlement operations should be started strictly as per schedule, that periodic lease granted to the land holders should be fixed at a uniform tenure of 30 years in all cases and that the records of rights should be updated promptly and regularly and delivered to the stakeholders *suo moto*.

3.44.1. On completion of the operations, that is to say, (i) survey and demarcations (ii) assessment of land revenue and (iii) preparations of the record of rights/ the pattas should be distributed soon thereafter and within a maximum period of three months after formal completion/ closure of the operations and preferably on a fixed date at and at a common fixed venue.

3.44.2. Based on the facts collected during the field survey, Pattas should be granted to each individual land holder by partition of the Joint patta/ estates and the system of issuing joint patta should henceforth be abolished except in case of the first generation joint families and that to only in exceptional situations

3.44.3. In the interest of preserving the sanctity of the gender equation, Patta should be issued in the joint name of the husband and wife.

3.44.4. The preparation of the record of rights should be digitized entirely and appropriate infrastructure for extension of this facility to rural areas should be created.

3.44.5. Henceforth, the system of grant of Annual patta should be abolished. The existing Annual pattas should be converted in to Khiraj Periodic pattas subject to the fulfilment of all the conditions laid down in Rule 105 of the Assam Land Record Manual read with Rule 13 of the ALRR, 1886.

3.44.6. The Committee, therefore, suggests that the Resettlement Operations should be invariably conducted in strict adherence to the fixed schedule. The Committee recommends that Resettlement operation should be statutorily fixed at 30 (thirty) years and that it should be uniformly applicable for all classes of land in all the districts of Assam

3.44.7. The Committee further recommends that as far as practicable, settlement operation should be conducted for the entire district rather than in any local area or class of estates specially notified area or class of areas as provided in Section 18 of the ALRR, 1886 read with the relevant Settlement Rules as this will ensure uniformity in the district.

3.45. Digitization and Up-dating of the System of Revenue Records: One of the most troubled and painful areas in the administration of land have been the sufferings of the land holders due to non-availability of up-to date/ appropriate documents to support their rights over land. There are hundreds and thousands of villages inhabited by the indigenous people of Assam who, the Committee was sad to learn, has never got in their life time or since the days of their forefathers pattas against the land they have been enjoying and holding since many generations past. The pre-occupation of the Circle officers with multifarious administrative works, the corruption at almost all levels of the revenue administration,

overwhelming lack of supervision, monitoring, reporting and correction of records of land are working as unassailable deterrent factors. This has brought untold sufferings to the stake holders of the State, brought disrepute to the entire administrative machinery and harmed the financial interests of the State Government itself. Therefore, the Committee recommends that the entire process of building the latest land rights of the various stakeholders should be digitized and completed by 31st March, 2018.

3.46. Uniform System of Revenue Collection: Mauzadar and Tahsildar: Land revenue forms a major source of revenue of the government and the efficacy of the system depends on the efficacy of the collection of land revenue from the landholders who enjoy lands under the Government of Assam as per their land rights. It, therefore, forms one of the most crucial functions of the Government, as without finance the government would be helpless to carry on its normal function.

In Assam, collection of land revenue has been done principally under the Mauzadari system in all the districts except in the districts of the Barak valley and the old Goalpara districts. The Mauzadari system has traditionally occupied a respectable position in the society and the system, under various stresses and strains, has withstood the test of time, though the government has left much to be desired to extract of the best of their knowledge and respectability. Be that as it may, the mauzadari system is still relevant and has retained their traditional utility. If the Government desires, it can improve their utility by reorganizing the Mauzas, refurbishing the Mauzadars' functions under better working conditions and improved financial support in the form of regular payment of increased rate of commission or other financial support.

It is in this context that the question as to whether another important system traditionally functioning in the aforesaid districts should be retained or a uniform system of revenue collection in the entire State of Assam be introduced. The Committee feels that in view of the Mauzadari system having functioned in almost all the districts of Assam except in the districts of the Barak Valley and those of old Goalpara districts, the Mauzadari system be made uniformly applicable in those districts as well, that is, the districts of old Goalpara and the Barak valley.

3.47. Uniform System of Land Measurement in all the districts of the State: It is in the interest of maintaining uniformity that the system of land measurement in both the Brahmaputra and the Barak valley districts should be the same. At present the measurement of land in the two valleys differ in that while in the Brahmaputra Valley districts 5 Kathas of land make one Bigha, in the Barak Valley it requires 20 kathas to make one bigha of land. Such divergent units of land measurement create confusion and make accounting process often complicated. The committee recommends that the unit of measurement of land prevalent in the Brahmaputra valley should be retained and made applicable in all the districts of Assam uniformly.

3.47.1. There are other crucial issues relating to their improved administration like administration of char areas, saving the large areas of Debottar/ Dharmottar/ Brahmottar lands, tea garden lands and lands in the Protected Belts and Blocks from the aggression/ encroachment by the non-eligible persons/ foreigners, principles of which should be dealt with as matters of the land Policy. Having regard for their importance, intricacies and sensitive nature of these issues, the Committee has deemed it proper to devote a chapter to each of them for giving exclusive treatments. Here it should suffice to say that the principles governing their administration should form integral parts of the Land policy.

3.48. Reorganization and Re-structuring the Revenue Department Offices at Various levels and Recasting Duties in certain cases: A basic aspect that has been lost sight of is the fact that while over the last five decades or so, the task of the revenue department has increased manifold and grown more complex in the wake of increased population due to natural growth but more particularly because of unabated infiltration from across the Indo-Bangladesh international borders and organized encroachments on land, the size, structure and organizational network of the Revenue Department has remained mostly static. The result is that there has been created a yawning gap between the supply of services and the demand for services under the Department from the apex to the bottom levels, that is, at Directorate, District, Sub-Divisional and Circle levels. In order to pay better and prompt attention to the growing problems of the common people, the civil administration has been expanded rather perceptibly. Thus, the number of Districts and Sub-Divisions has been increased from the previous 27 to 33 and to 80 respectively during the last few years. Beside, while the Circles are the nerve centres of the revenue administration, the Circle Officers borne on the Assam Civil Service cadre are more often than not drafted for multifarious administrative works other than the revenue works, often of emergent nature such as law and order problems, visits of VIPs and VVIPs, Election Duty etc. In all such cases, the multifarious revenue works are relegated to the background and the calls for attending to such administrative works receive primacy. Moreover, the normal works of the Department have suffered so much that urgent revenue works including mutation, issue of pattas, conversion of annual pattas, partition of pattas, demarcation of boundaries and attending to the various day to day needs of the common stakeholders etc. have accumulated to reach a point of no return, much to their chagrin and sufferings.

3.49. In order to streamline the Revenue Administrative machinery and alleviate the sufferings of the common stake holders, the Department should be re-organized, re-structured and revitalized by taking appropriate measures as suggested in a later Chapter. Here we just make a mention to it so that it finds a mention in the New Land Policy proposed to be adopted by the Government. What needs to be highlighted here is that as most of the problems arise due to non-enforcement or inadequate enforcement of the legal provisions under the framework of an ill-equipped, outdated administrative set up in and under the Revenue Department of the Government of Assam, we have made rather elaborate analysis and suggestions for expansion and restructuring of the Revenue and D.M Department in Chapter -10.

Chapter-4

*“Sweet are the uses of adversity;
Which like the toad, ugly and venomous,
Wears yet a precious jewel in his head”
- Shakespeare*

*“So much to do, so little done!
But when its over,-the victory won,-
Oh! Then my soul, this strife and sorrow
Will end in that great, glad, Tomorrow”
-J.R. Gilmore*

Administration of Char Areas in Assam

4.1 Char Areas: A Creation of the Mighty Brahmaputra: Brahmaputra, acknowledged as one of the most turbulent rivers of India, is a life line of Assam. It ranks fourth among the large rivers of the world in terms of discharge at the mouth. From its source, it covers a length of 2880 Kms out of which 918 Kms are in India. It has catchment area of 1, 90,000 sq. Kms in India. The length of the river bed is 800 Kms. It is also the most cherished gift of Nature which, with its expansive tracts of fertile soil called Char lands, lures ceaseless streams of outsiders, particularly the illegal immigrants from Bangladesh, to grab land and get settled there. The process of immigration in to Assam and mass encroachment of these fertile char lands has been prevalent since the pre-independence era and continues till today even with greater vehemence.

4.1.1. These Char villages extend almost all throughout the length of the State and are spread from Dhubri at the western end to the easternmost districts of Assam. The soil gained as accretion is alluvial and is highly fertile. The occupiers annually harvest bumper crops though, during the rituals of high floods, their houses and cattle are washed away. And yet, it enriches the life of the settlers of the vast expanse of Char villages of Assam bountifully gifted by Nature. The Government of Assam (GOA) acknowledges that these accreted areas are deemed to be an “estate” as defined in Section 3(b) (4) of the ALRR, 1886.

4.1.2. Geographically, the riverine areas (island) of the river Brahmaputra, locally known as “Char/ Chapori” cover about 3.60 lakhs hectares of transient formation of ‘land’ and support a population of. 24.90 lakhs (As per Socio Economic Survey, Government of Assam, 2002-03). The chars follow a peculiar pattern of physical changes. They are subjected to erosion on their upstream and deposition of heavy silts on the downstream, due to which they migrate downstream. This affects the geometry and location of the chars during floods which visit almost every year. Though Chars are also known as

Chaporis, there is a topographical distinction between the two in that, while the chars are formed on the silted highland of the river, the Chaporis are formed on the bank. When the Chars gain solid or perennial formation, then they become Chaporis

4.1.3. Chars in Bangladesh: Char in Bangladesh is a tract of land surrounded by either the waters of the Bay of Bengal, lake, or stream. It usually means any accretion in a river course or estuary. It includes all types of bars including both lateral (point-bars) and medial (braid-bars). In the dynamics of erosion and accretion in the rivers of Bangladesh, the sand bars emerging as islands within the river channel (island chars) or as attached land to the riverbanks (attached chars), often create new opportunities to establish settlements and pursue agricultural activities on them. A distinction can be made between island chars, which are surrounded by water year-round and what is called attached chars, which are connected to the mainland under normal flow. Once vegetated, it assumes a permanent character and is converted in to char land as defined under the Bengal Alluvion and Diluvion Regulation, 1825.

4.1.4. Speaking in scientific term, chars in Bangladesh can be considered a 'by-product' of the hydro-morphological dynamics of its rivers. The Irrigation Support Project for Asia and the Near East (ISPAN) study indicates that the chars that are not eroded in the first four years of their emergence could be used for either cultivation or settlement by the end of these four years.

4.1.5 Report of the Bangladesh Bureau of Statistics: The Bangladesh Bureau of Statistics Report of 1997 suggests that in the relatively lower reaches, where land is more fertile, cropping intensity in the chars appears to be between 150 and 185, which is quite similar to the average intensity of 165 for the entire country. However, the island and attached chars appear to be less productive than adjacent mainland areas. The major reasons for this are the relatively less favourable soil conditions in some of the chars, uncertainties caused by erosion and frequent floods

Although both river water and GROUND water are abundantly available in chars, irrigated crops are scarce in many of the chars except for the ones within the UPPER MEGHNA River. Forestry has also been successful in some of the chars. The perennial availability of water in the rivers provides year-round opportunities for fishing to many of the char communities. Many of the chars have extensive areas of grasslands. These are used as grazing lands for the cattle in grass, which grows quite extensively on chars during the early period of vegetation, is used as thatching material. In some chars there are good prospects for sand mining, which can be properly exploited to benefit from the increasing demand for sand as a construction material. During the period of 1984 to 1993, char areas had increased in all rivers, except in the Upper Meghna. The net increase of chars during this period amounted to 36,000 ha. The effects of riverbank erosion and widening of the river channel on the people living in chars have been significant. During 1981 to 1993, a total of about 729,000 people were displaced by river bank erosion. More than half of the displacement was along the Yamuna.

4.1.6. The Basic Features of the Chars in Bangladesh and Assam: Lure for Illegal Settlement in the Assam Chars: The basic features of the chars of Assam and Bangladesh are same except that the average cropping intensity of the Chars of Assam is more than that of Bangladesh probably because unlike in the Chars of Bangladesh, the sea water alkaline components in the Chars of Assam are non-

existent. And with the plentiful growth of luxuriant vegetation, high cropping intensity with minimum labour, fishing, boating and thatching opportunities, and above all, the absence of Government administration and encouragement by both the communal politicians and the Government of Assam, lured by vote bank politics, the chars of Assam have become the paradise of illegal Bangladeshis. It is important to note that human habitation in the Chars of Bangladesh is known to be banned by the Government of Bangladesh.

4.1.7. Human Habitation in the char Areas as a Destructive Agent: It is a well-established fact that the Chars are temporary accretion formed due to deposits of the silts carried by the river Brahmaputra and are highly susceptible to demolition due to strong river current during the high annual floods. When human habitation in the Char obstructs its natural or new courses, it either demolishes the existing Char or takes easier route to maintain its unobstructed course by eroding new villages on its banks. The erosion of thousands of villages in the river banks from Sadiya to Dhubri can be largely ascribed to this unwelcome factor of heavy habitation of the Char area. In other words, existence of human habitation in the Char villages of Assam has worked as a destructive agent for demolition of the permanent villages of Assam, thereby dumping great miseries on millions of indigenous people of Assam. In addition, due to indiscriminate and unrestrained immigration and encroachment to the extent of crossing its optimal level, it has caused colossal harm to ecological safety and balance.

4.1.8. The Ploy of the Illegal Bangladeshis in Grabbing of New Lands: As has been mentioned above, all the Chars-be they new or old- are in the total clutch of the land-grabbing illegal Bangladeshis wandering from place to place like the birds of passages in search of greener Pasture, which includes new areas beyond the Chars for encroachment. While so wandering, they have their ploy handy and plead that they are flood and erosion-affected people displaced from their Barpeta or Dhubri homes or things like that. They take full advantage of the fact that the illegal Bangladeshis of Assam have not been identified and pose that they are citizens of India. The fact, however, remains that they neither understand anything of the local language nor are they acquainted with the locality they want to grab. Their invisible leaders guide them and teach them one or two things about the local language or culture to hoodwink the local indigenous people or the police authority. And once they successfully grab the new lands/ areas in community, they take the full benefits of the flood relief under the Disaster management Department of the GOA. And inspired by their unseen foster fathers, they encroach all kinds of reserved lands including the VGR, PGR, reserved forests, road side and riverside lands, water body, Protected Belt or Block lands, and, in fine, leave no land to be grabbed. This has been the art and chemistry of engulfing the entire Assam step going step by step perennially.

4.2. The Government as Silent Spectator: Because of the transitory or shifting nature, administration of the vast chars has proved ordinarily a difficult task. In Bengal, the British Government had enacted the Bengal Alluvion and Diluvion Regulation, 1825 wherein, the Char areas were defined as “small islands in the river bed which are formed by either frequent changes of the river or by shifting of the sands which lie on bed of those rivers”. In the Assam Land and Revenue Regulation, 1886, no such definition has been given. It simply states that an “estate” includes any Char or island thrown up in a navigable river which under the laws in force is at the disposal of the Government”. The Government has also acknowledged that these accretions are recognized as estate, and, therefore, of necessity, the GOA should have administered them like other Government “Waste” or Khas land”. And once the char

land is treated at par with the Government khas/ waste land, allotment or settlement of land in the Chars have to be preceded by cadastral survey. Secondly, the process of conducting settlement operation, preparation of record of rights and assessment of land revenue in the areas in which cadastral survey has been completed has to be performed as per the provisions laid down in the Assam Land Revenue Reassessment Act, 1936. However, though there are hundreds of char villages which have assumed permanent characteristics and some developmental programmes have already been undertaken, cadastral survey which should be construed as a pre-condition for settlement in those areas still eludes the system. In fact, some of these char villages have been existing for more than a century with the inhabitants living there with homesteads of permanent and semi-permanent nature, doing their flourishing cultivation, rearing cattle and maintaining big families such that many of them have emerged as not only rich cultivators and a highly educated section of the otherwise backward population, but also as powerful political leaders, educationists and bureaucrats. Thirdly and most seriously, it is a public knowledge that these habitats have become the most luring haven of the illegal Bangladeshis, as if the Constitutional probity to ascertain the requirement of citizenship before allowing settlement or launching development projects has lost its utility. The other side though, is equally true that once habitation is allowed, human dignity cannot be forsaken and launching of development works is bound to be inevitably taken up.

4.2.1 The Grave Consequences of Government's Escapist Role: Paradoxically enough, though the Government of Assam had created the Assam State Char Areas Development Authority as early as in 1983 and later it was replaced by a separate Directorate of Char Area Development,, the Government machinery has practically abandoned its duty to carry on its statutory task of administering the land-related matters including those of revenue and general administration. Thus, day in and day out, new areas are encroached by thousands of illegal Bangladeshis. Organized swarms of land grabbing suspected Bangladeshis, emerging from nowhere and equipped with construction materials and arms, descend on the vacant char areas to establish illegal villages overnight and the effort of the indigenous people to resist such organized invasions on the char meet with dreaded counter-resistance and armed attacks. More often than not, there arise serious law and order problems leading to loss of life of the local indigenous people. FIRs are lodged by the affected indigenous people in the local police stations but police fail to gather courage even to visit the place of occurrences, let alone taking action against the attacking gangs. The local print and electronic media have vividly and repeatedly described or displayed these ghastly invasions on land and the indigenous people but the Government machinery has shown no signs of their existence. With this kind of mindset of the Authorities, it is any body's guess as to how and what land rights of the helpless indigenous people can be protected. In fine, the GOA has considered this class of 'estate' spreading all through Assam as the abandoned regions.

4.2.2. Matabbar/ Dewanis as the King of Char Land: All lands in the Char areas virtually belong to and are settled by a well-established institution known as Matabbar or Dewani. For all practical purposes, they play the real role of the Government, making allotment of land to or settling land with new arrivals of the infiltrators from across the international borders, collecting revenue, exercising monopolistic authorities over the settlers who live there at the complete mercy of the Matabbar and controlling all facets of their activities. They are the real Zamindars with their sprawling estates and wield tremendous political and financial clouts such that nobody can gather any courage to raise any voice against them, if they wanted to live there or be alive at all. To inject fear psychosis in their mind, the Matabbar has his ready weapon of threatening to get them detected by police. So the Matabbar exercises the full power of the absenting Government authorities and make allotment or settlement of

land to the new arrivals of suspected Bangladeshis, give them money for being settled at highly exorbitant rate of interest and, in addition to keeping them in perpetual fear and control, the matabbar builds the way to exploit them in all conceivable way, often treating the victims as animals. Such tragic incidents vividly displayed by the local electronic media off and on make one to remonstrate helplessly and tears to roll down. And yet, the harsh reality remains –the ceaseless streams of illegal immigrants continue to immigrate and submit to the might of the invincible Matabbar through the well-knit channels working on the lines for settling them in appropriate places and the Dewani/ Matabbar reigns his empire to his heart's contents, funds and controls them in all conceivable manners. In fact, they play the role of Supreme land lords lording over their respective zones of. He is their God or semi-god, their Government and they know no other authority for their protection and shelter. And the communal political leaders and the religious fundamentalists who spouse their cause are happy to leave them at the mercy of the Dewani, once they are settled and their vote bank interests are served. The moot question remains: how can foreigners be allowed to become voters in violation of the Constitution of India and the Indian Citizenship Act, 1955? Should the Government(s) not open their eyes, rise to the occasion and take remedial measures for protection of the indigenous citizens? The inaction or physical and mental disappearance of the Government from the Char lands or of the police from the encroachers' heaven is, therefore, a tragedy that has to be remorsefully reversed. The concept that all lands in the State belongs to the State has been belied because here in the Char areas all lands belong to the Dewanis or Matabbars. **It is time that the Government of Assam wakes to the harsh reality of the State and takes corrective measures if the indigenous people were to be protected from the rising tides of the land –invading illegal Bangladeshis.**

4.2.3. Why do the Illegal Immigrants Cross over to Char Areas/ Assam? : Behind the unabated infiltration from across the Indo-Bangladesh Border in to Assam, there are two sets of factors, viz; the push factor and the pull factor. The push factors include (i) explosive growth of population and great scarcity of cultivable land in Bangladesh (ii) severe feudal oppression by the landlords under the Zamindari system and perpetually near- famine conditions of the peasants of East Bengal/ Bangladesh, (iii) the unpredictable natural calamities like high tides of the Bay of Bengal, lower level of the topography of Bangladesh and sweeping Tsunami. The pull factors traditionally include (i) comparatively less oppression in Assam by the earlier landed aristocracy of a Assam (ii) Operation of relatively less oppressive riotowary system in Assam (iii) Perceived abundance of land in Assam particularly in the context of millions of them already being settled in Assam (iv) Comparatively better land: man ratio in Assam (v) encouragement given by the provincial government headed by the then Muslim League Government under the pretext of Grow more Food Campaign (vi) patronage received from the Marwari traders and even Assamese *Mahajans* and business men to engage them as cheap labour (vii)the colonial policy of augmenting the land revenue through coverage of more lands under crops (viii) aversion of the Assamese people to hard work under false notion of self respect and dignity and ease-loving, dependent work culture of the Assamese people (ix) political / communal patronage received from the fundamentalist /communal political sections to bring more Muslims to Assam (xi) Corruption at bureaucratic levels who give them land, enter their names in the electoral rolls, grant ration cards , provide electricity connections etc .

4.2.4. How do they Cross the International Boundaries? : The Indo- Bangladesh Borders through Assam, Meghalaya, Tripura and Mizoram are still wide open to allow facile entry from Bangladesh in to Assam. The Border Security Forces (BSF) or other paramilitary forces that are entrusted with guarding the borders make their job easy by allowing these seekers of greener Pasture in Assam to cross the

border for a little personal gain. It is an open secret that anyone who wants to enter in to Assam has only to pay Rs 200 or so to the custodians of the country's integrity. In fact, the whole process of the immigration is conducted by well knit special agencies or organizations that operate on both sides of the borders and take over the entire process of depositing the infiltrators in the Assam side of the borders. In the process, they all do a lucrative business of exporting these unwanted humans to Assam. Before they cross the border, they are reportedly given language training, names of their destination and contacts on arrival in Assam. Some private Madrassas are reported to play dominant roles in the whole process of sending such consignments to Assam. On reaching Assam, the infiltrators are taken over by the respective assignees who utilize their vibrant network to various destinations allotted to each and the process goes on silently and smoothly perennially. And the Government of Assam finds no reason to be concerned with such arrivals which causes definite threats to the land rights of the indigenous citizens of Assam as also to their very identity. Recently, several occasions of mass movement of the suspected Bangladeshis (or Rohingyas?) to several districts of upper and middle Assam and instances of overnight setting up of villages in the Chars/ Chaporis have been reported in the local electronic media. And when the organized land grabbing by the suspected foreigners was brought to the notice of the local police, and in more than one cases these unidentified swarms of land invaders were even handed over to the local police authorities, the police authorities, instead of apprehending them and taking them in to the detention camp they put their back on and were simply let off. In one case, the local indigenous villagers demolished the huts erected overnight by the foreign land invaders but, there being no police action against them, they were moving elsewhere like flying birds of passage at their sweet will. Does it matter whether these armies of land invaders suddenly appearing from nowhere in the Blue with an alibi of coming from Barpeta or Dhubri or Mukalmua set up their illegal villages in Morigaon or Majuli? What prevents the Government or the police authorities from apprehending them? Of whom is the government afraid? It is high time that the Government of Assam shuns its escapist mindset and chronic hypocrisy and accepts the statutory duty of protecting the local indigenous people of Assam and their land rights from the land hungry invaders, to do which, a series of effective steps must be implemented to protect the indigenous society of Assam. Otherwise neglect of this burning problem is fraught with the risk of burning one's Assam. The indigenous people have their inalienable duty and responsibilities to rise to the occasion and gather courage to protect their own life and property.

4.3. Statistical Insight in to the Gravity of the Problem: The Char villages spreading from Dhubri to Sadiya comprise a total area of 3,609.27 sq. Kms 2003-04 and accounts for 4.60% of the State's total geographical area. These areas in different districts in 1992-93 as well as in 2003-04 and the percentage of total areas of the districts covered by Char areas in 2003-04 are shown in Table-4.1. As will be seen, there are 2251 Nos. of Char villages spread in 14 districts and occupying 3,609. 27 Sq Km of land with the Char area being the largest in Dhubri followed by Jorhat district. Likewise, Table 1.2 below shows the total no. of Char villages vis-à-vis total no. of revenue villages in Assam It is important to note that these chars are made of alluvial soil and are very fertile with a record of one of the highest average yields.

Table 4.1

District-Wise Char Areas in Assam

DISTRICT	Total Area of District (in sq km) (2001 census)	Size of Char Area, 1992-93 (in sq km)	Size of Char Area, 2003-04 (in sq km)	Percentage of Char area in the District in 2003-04
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1	2	3	4	5
KAMRUP	4,345.00	54.02	171.67	3.95
NALBARI	2,257.00	85.59	134.32	5.95
BARPETA	3,245.00	278.81	366.55	11.30
GOALPARA	1,824.00	116.23	198.60	10.89
BONGAIGAIN	2,152.00	113.67	142.56	6.62
DHUBRI	2,798.00	869.25	998.98	35.70
DARRANG	3,481.00	66.61	167.56	4.41
MORIGAON	1,551.00	68.05	119.32	7.69
NAGAONG	3,973.00	32.65	120.36	3.03
JORHAT	2,851.00	55.76	421.74	14.79
SONITPUR	5,324.00	240.14	241.68	4.54
LAICHIMPUR	2,277.00	120.70	215.23	9.45
DHEMAJI	3,237.00s	135.17	169.76	5.24
TINSUKIA	3,790.00	103.24	140.94	3.72
ALL ASSAM	78,438.00	2390.00	3,609.27	4.60

Source: Column-2 from *Statistical Hand Book*, Assam 2001, and column-3&4 from *Socio-Economic Survey Report, 1992-93*, Char Areas Development Authority and *Socio Economic Survey Report, 2003-04*, Directorate of Char Areas Development and Government of Assam respectively, column-5 calculated.

Table 4.2

Villages in Char Area in Different District's of Assam

DISTRICT	Total No. of Villages in Districts (2001)	Total No. of Char Villages, 1992-93	Total No. of Char Villages, 2003-04	Percentage of Char Villages in the District in 2003-04
1	2	3	4	5
KAMRUP	1,393	148	175	12.56
NALBARI	827	58	32	3.86
BARPETA	1,073	351	277	25.81
GOALPARA	837	187	179	21.38
BONGAIGAIN	917	150	117	12.75
DHUBRI	1,333	313	480	36.00
DARRANG	1,341	121	134	9.99
MORIGAON	636	41	39	6.13
NAGAONG	1,420	29	43	3.02
JORHAT	853	210	293	34.34
SONITPUR	1,870	118	145	7.75
LAICHIMPUR	1,170	182	109	9.31
DHEMAJI	1,315	95	149	11.33
TINSUKIA	1,146	86	79	6.89
ALL ASSAM	26,312	2089	2251	8.55

Source: Column-2 from *Statistical Hand Book*, Assam 2001, and column-3&4 from *Socio Economic Survey Report, 1992-93*, Char Areas Development Authority and *Socio Economic Survey Report, 2003-04*, Directorate of Char Areas Development, Government of Assam respectively, column-5 calculated.

4.3.1. It will be also seen from the Table Below (Table 4.3) that the total population of the char areas (2003-04) was 24.9 lakhs, with an explosive growth rate of 195.83% in Dhubri (between 1992-2003), 75.10% in Morigaon, 98.85% in Nagaon, 51.58% in Jorhat, 58.30% in Sonitpur and 59.25% in Tinsukia. The most distressing point of concern is that almost all the settlers are either immigrants from erstwhile

East Pakistan or Bangladesh, a section of whom has now become citizens as per the Assam Accord, 1983, or they are illegal Bangladeshis coming after 25 March, 1971- all living together without the illegal Bangladeshis being identified and segregated due to stiff resistance of their political and religious pseudo-protectors. The fact that the infiltration of illegal Bangladeshis is still going on even after 70 years of independence through the open Indo-Bangladesh International Borders Vis-à-vis Assam, Meghalaya, Tripura etc and that in as many as 9 districts they have already become majority of the population with the potentials of another 4/5 districts following suit in the 2021 Census, has caused serious fear-psychosis in the minds of the indigenous people of Assam that they would be swamped by the ceaseless streams of the illegal Bangladeshis in the near future.

Table 4.3

District wise Demographic Characteristics of Char areas of Assam

DISTRICT	Total Population in the District (2001)	Sex Ratio in District (2001)	Total Population in Char Area (1992-93)	Total Population in Char Area (2003-04)	Sex Ratio in Char Area (2003-04)	% of total population in Char Area in (2003-04)	% increase in population from 1992-93 to 2003-04 in Char Area
1	2	3	4	5	6	7	8
KAMRUP	25,22,324	901	105687	1,54,508	974	6.13	46.19
NALBARI	11,48,824	939	62892	83,602	958	7.28	32.93
BARPETA	16,47,201	941	275525	2,68,344	949	16.29	-2.61
GOALPARA	8,22,035	956	130007	1,86,826	956	22.73	43.70
BONGAIGAIN	9,04,835	945	110215	1,35,809	931	15.01	23.22
DHUBRI	16,37,344	947	233206	6,89,909	988	42.14	195.83
DARRANG	15,04,320	944	135876	1,42,405	917	9.47	4.81
MORIGAON	7,76,256	946	55581	91,324	906	11.76	75.10
NAGAONG	23,14,629	944	45161	89,803	982	28.54	98.85
JORHAT	9,99,221	933	141901	2,15,095	962	21.53	51.58
SONITPUR	16,81,513	929	92061	1,45,729	940	8.67	58.30
LAICHIMPUR	8,89,010	951	110200	1,43,235	956	16.11	29.98
DHEMAJI	5,71,944	941	68998	91,203	912	15.95	32.18
TINSUKIA	11,50,062	913	33034	52,605	932	4.57	59.25
ALL ASSAM	2,66,55,528	935	1600244	24,90,097	958	9.34	55.61

Source: Column-2&3 from *Statistical Hand Book*, Assam 2001, and column-4 from *Socio Economic Survey Report, 1992-93*, Char Areas Development Authority and column 5,6 from *Socio Economic Survey Report, 2003-04*, Directorate of Char Areas Development, Government of Assam respectively, column-7&8 calculated.

4.3.2. A Dangerous Trend of Setting Up Overnight Illegal villages that Need to be Halted: As mentioned in a foregoing paragraph, the recent trend in land grabbing shows that illegal Bangladeshis have started moving in gangs of thousands in all directions of the state in an organized manner and have been detected setting up of illegal villages overnight in most of the VGRs and PGRs or in vacant Khas land. In more than one cases, the local people have resisted and even demolished such overnight villages. In one case, the suspected land-grabbing Bangladeshis were handed over to police. However, police failed to discharge their entrusted duty and responsibility of arresting these foreigners and were let off to be missing under the blue sky. The problem is, unless these suspected foreigners are taken in to custody, kept in detention camp and proceeded against as per law of the land, the problem will only shift or spill from one place to another. In this dangerous ambience, the indigenous people have good

reasons to feel that not only their land rights but also the safety and security to their life and property are under serious danger.

4.4. Indigenous People of Assam and the Government: As indicated above, while unabated immigration of the illegal Bangladeshis in to Assam has threatened the very security and identities of the indigenous people of Assam. However, both the Government of India (GOI) and the Government of Assam (GOA) have habitually closed their eyes and ears and remained silent spectators of this invasion. The Indo-Bangladesh International Borders are still open, the detection and deportation of the illegal Bangladeshis have been receded in to background despite the orders/direction of the Supreme Court of India to do so. The swarms of these land-invading locusts are methodically invading the indigenous villagers and grabbing all open spaces in organized manner to set up new illegal villages mostly armed with dangerous arms and weapons in an organized gang method. In this background, what protection to their land can be enjoyed when their very identities are at stake? The harsh truth that must be taken cognizance of by the Government is that without solving the foreigners' problem, the talk of protecting the land rights of the indigenous people of Assam is bound to be a farce amounting to shedding a crocodile's tears. These foreign land invaders, armed with dangers weapons, of course with the blessings of the political protectors, are total strangers to the local language and culture and therefore, are not communicable in many cases. It is high time that the new government start the process of detecting and deporting the foreigners and deleting their names from the electoral rolls. It must be understood that without signing a Repatriation Treaty between India and Bangladesh, not a single illegal

4.5. Cadastral Survey in Permanent Chars and Settlement of land Only to Indigenous Persons: Though Char villages are mostly transitory, there are hundreds of Char villages which have become habitable permanent villages with dense habitation. From the replies given by the Government to our queries, it appears that the Government has not yet identified the permanent and transitory Char villages and that , while all the villages including the temporary villages are heavily populated, cadastral surveys in all these villages have not been done. Conduct of cadastral survey, settlement of land in the cadastral villages and development works are inseparable parts and settlement and development should be preceded by cadastral survey of the permanent villages only. The question of settlement of land in the transitory chars is highly improper and injurious for geological, procedural and legal reasons. Wherever unauthorized occupation has taken place by encroachment, the Government has a duty to clear such encroachments. And above all, occupation or settlement of land should be made only to the indigenous persons and there can be absolutely no ground to allow foreigners to be settled in any land-whether it is a char land or any other class of land nor is there obligation on the part of taking up development works for the foreigners. The first and foremost duty of the government in such cases is to detect and deport them which is a Constitutional and legal requirement. However, the Char Development Authority of the Government of Assam is known to have launched various development schemes like construction of roads and bridges, building of schools and hospitals and lifting many of the villages to be electrified villages. Later on, probably in the early nineties, the Char Development Authority was replaced by the Char Development Directorate for facilitating speedy development of these villages. A few of the development schemes taken up in five districts include (i) Alopai Char Development Project (Barpeta), (ii) Pancharatna Char Development Project (Goalpara), (iii) Nayeralga Char Development Project (Bilashipara, Dhubri), (iv) Darrang Char Development Project (Mangoldoi) and (v) Majuli Char Development Project (Majuli) Most of these vast areas have assumed more or less a permanent feature. The Government Assam also says that "Char areas have become more or less

permanent and the areas where the people have their dwelling houses and cultivation on a stable basis, have been traversed by the Assam Survey and made cadastral villages after completion of cadastral survey by the Revenue Circle Staff". (Page 113 *ibid*). Therefore, it is not clear as to why GOA has not made the cadastral survey in all the permanent chars or why it has not detected and evicted those settlers with suspected origin who have encroached lands in both cadastral a non-cadastral temporary Chars. The non-cadastral Chars are said to have been brought under Block Survey and Tauzi Bahir revenue (actually penalty for encroachment) is claimed to have been realized by the GOA. Such a practice is neither desirable nor permissible in that ALRR, 1886 does not provide for allowing encroachment by realising penalty. Moreover, such practice of allowing unauthorised settlement in exchange for payment of penalty encourages further encroachment and therefore should be done away with.

4.5.1. The Assamese Muslims and the Suspected Bangladeshis as distinct Identities /Groups:

The truth, however, is that almost all the Chars are today under the exclusive hold and clutch of the suspected Bangladeshi/ Bengali Muslims. In fact, neither the Assamese Muslims nor the Bengali (Bangladeshi) Hindus are assimilative brands there. The Assamese Muslims constitute socially, culturally, educationally and economically a class radically different from the Bangladeshi Hindus. On the other hand, the old timer Muslims from the erstwhile Mymensing etc, most of whom have by now become Indian citizens, being similar in look, language, culture and wearing apparel, they are not distinguishable from the non-citizens of their ilk. This point assumes importance if only to avoid embarrassment of detecting this class of converted citizens of Bangladeshi origin. Hence, the entire population in the char villages belong to the immigrant Muslims.

4.5.2. High Birth Rate and Reasons: So, the growth rate of population in the Char areas is incredibly high. This is explained by the fact, as indicated above, that in the incongenial situation in which they are placed, the common people there are understandably uneducated and the human development index is extremely low. So, they provide a market of cheap and plentiful child labour and women worker. For them, the principle of more the number of women and children in the family, more the human resource and income is very much applicable. So, polygamy and uncontrolled birth of children are preferable products. This trend is precipitated by the Dewanis whose prerogative it is to bring in more and more Bangladeshis for filling up the cheap labour markets of Assam and settle them in, besides the chars, any class of land-be it Government waste land, road side or riverside reserves, PGRs, VGRs, Protected Belts and Blocks, water bodies, hills or forest reserves. And, the omnipotent Dewanis work in tandem with the religious fundamentalist groups on both sides of the international borders to make the process perennial. The non-Government Madrasas add fuel to the fire to act as their friend, philosophers and guide. Dewanis or Matabbars, as they are called are the linkmen for their settlement and play havoc amongst the illegal Bangladeshis under their fiefdom and threaten them, at the drop of a hat, to hand them over to police to face the music, should they ever display their audacity to disobey their commands. And with the international Indo-Bangladesh borders via Assam etc kept perpetually wide open, all that their infiltration adventure cost them is to pay Rs 200 to the BSF or any security forces on this side of the Border, in addition to the payments made to the Dewanis as a small price of the shelter and protection they provide under their wings.. So, day in and day out, infiltration of the illegal Bangladeshis is going on wreaking vengeance on the demographic pattern of Assam, employment market, the ecological balance and the law and order situation of Assam where they have bulged in to majority. Incidentally, it is no secret that these char areas have become the hub of many illegal activities like, theft, dacoity, drug peddling, murder, kidnapping and rhino poaching, and in fact, what not. Now,

the biggest question is: What is to be done with these extensive char areas under encroachment of illegal Bangladeshis? Will the swarms of encroachers be evicted? Will they be deported? Or, will they be kept in detention camps set up for this purpose? Will the Government have political will to try such a dangerous venture? These are some of the vital questions that would need to be answered before any concrete suggestions can be made by the Committee whose scope is only limited.

4.5.3. Victims of Polygamy and Low Literacy: The poverty-ridden people living and struggling for survival in the thousands of Char villages are admittedly victims of polygamy and low literacy. Prevalence of polygamy amongst the immigrant Muslim community contributes to a large family which cannot be supported with their low family income. This in turn results in low family income, low literacy, aggravated child mortality and poor health of the women and children who, under compelling situations, have to earn their livelihood at young age and fill up the labour market as either domestic help or day labourers or be engaged in petty vegetable or fish seller or Rickshaw pullers etc. The following table shows the low literacy rate among the immigrant Muslims of the char areas.

Table 4.4

District wise Literacy in Char Areas of Assam

DISTRICT	Literacy rate in district (%) (2001)	Literacy rate in char area (%) (1992-93)	Literacy rate in char area (%) (2003-04)
1	2	3	4
KAMRUP	74.16	16.85	15.16
NALBARI	67.23	7.90	16.24
BARPETA	56.24	12.90	17.63
GOALPARA	58.03	8.38	13.65
BONGAIGAIN	59.33	12.85	12.46
DHUBRI	48.21	19.06	14.46
DARRANG	55.44	10.12	12.34
MORIGAON	58.53	8.02	18.50
NAGAONG	61.73	9.44	17.59
JORHAT	76.33	31.90	60.55
SONITPUR	59.00	12.63	16.93
LAICHIMPUR	68.56	14.01	18.50
DHEMAJI	64.48	14.44	15.69
TINSUKIA	60.95	14.20	14.00
ALL ASSAM	63.25	15.45	19.31

Source: *Socio Economic Survey Report, 1992-93*, Char Areas Development Authority and *Socio Economic Survey Report, 2003-04*, Directorate of Char Areas Development, Government of Assam.

4.6. The Administrative Machinery of the GOA to be extended to the Abandoned Char Villages: It has been seen that characteristically, the Char villages are transitory in nature and creation or demolition is a ritualistic process associated with annual floods. In the process, every year hundreds of permanent villages are eroded, new Chars are created; old chars are washed away and so on. The Revenue Department or the Director, Land Record (DLR), Assam, has a duty to order the huge land record staff under him to conduct survey and update the records of new creation or decretion of chars, conduct and complete the cadastral survey in the permanent char areas, update the record of all the Chars of Assam to formulate a stable policy of land administration including survey, settlement,

allotment of land , assessment of revenue and eviction of the encroachers along both banks of the river Brahmaputra. Secondly, there are still quite a number of Chars which are safe from the encroachment by the illegal Bangladeshis or have fallen victim to encroachments partly by the illegal Bangladeshis or by those who entered in to Assam on or before 24 march, 1971, and have by now acquired citizenship status under the Assam Accord (though it is still *sub judice* in the Supreme court of India as some indigenous organizations have challenged the cut off date of 24th March, 1971).

4.6.1. The purpose of the new survey of the Char villages would be to isolate the two streams of the Bangladeshis: (i) those who came before 25th March, 1971 and those who came on or after 25th March, 1971.

4.7. Conclusion and recommendations: The former stream should be isolated for settlement of Char land in those Chars which are predominantly occupied by their class and land allotted to them should be limited to permissible limits per family. What should not escape the attention of the GOA is that most members of the average family are wage earners by profession and not cultivators. (ii)The second stream, that is, the illegal Bangladeshis who are estimated to comprise a substantial chunk, should be shifted to the detention camp for their necessary deportation in due course and the lands to fall vacant should be either settled with the landless indigenous people for Pam cultivation, well protected by security forces, in order to check re-encroachment and possible law and order problems; or should be retained vacant for environmental reasons. As we have seen, Government of Assam claim most of the char villages to be of permanent nature Then, why not do the cadastral survey, build up necessary land records as required by the ALRR, 1886 and the Assam Land Record Manual and give settlement to those who are eligible to get land? (iii) A massive Encroachment programme in the entire Char areas should be planned, launched and executed armed with a High Power Task Force so as to clear the vast tracts of the Char Lands (i) Cadastral Survey should be completed and settlement made in the permanent char areas and assessed to land revenue and development.

Chapter-5

“Laws grind the poor and rich man rule the law”

-Goldsmith

Protected Belts and Blocks of Assam

(Chapter-X of ALRR, 1886)

5.1. Constitution of the Protected Belt and Blocks-A landmark: The constitution of the Protected Belts and Blocks for protecting the land rights of the tribal and other backward classes of people of Assam is a landmark decision taken by the Government of the post-independent Assam. In fact, the enactment of the Assam Land and Revenue Regulation, 1886 which itself was a great landmark in the domain of Land and Revenue, administration of Assam was amended in 1947 to add a new Chapter known as Chapter X. The new Chapter brought a significant change in regulating the land and revenue administrative system in those areas which were predominantly inhabited by the backward classes of people including the tribal/indigenous people. Since the sole purpose of creating these Belts and Blocks was to protect the land of the designated backward classes of people from the more advanced classes, particularly from the aggressive land grabbing by the land hungry Bengali Muslim peasants imported or infiltrating mostly from Mymensingh district, creation of these protected Belts and Blocks was a compelling necessity and inevitability.

5.1.1. The Background of Creating the Protected Belts and Blocks: The background in which the Protected Belts and Blocks of Assam were created has been lucidly articulated in the very introductory Para of the ALRR, 1886 as follows:

“Large areas in plains districts are inhabited by plains tribal people. Simple in nature, these people were living in primitive conditions, and due to lack of education and material advantages, they could not look after their own welfare and were incapable of protecting their own interest. A large number of outsiders mostly from East Bengal began to pour in large numbers in to Assam from the beginning of the present (i.e. 19th) century. They began to spread in to the areas occupied by these tribal people. The tribal people being naturally shy and unable to live in peace with these newcomers began to recede in to the interior. To protect these people from the onslaught of these land hungry outsiders, imaginary lines were drawn dividing the areas occupied by the tribals from the areas occupied by these outsiders. This was known as the Line system which, however, did not work satisfactorily, due to undeterred encroachment inside the demarcated line by the immigrant Muslim peasants. Later, some development works under what is known as the Colonization Scheme were taken up. But these also did not give the necessary protection to these backward/tribal people, and their lands continued to pass on to the hands of the

outsiders and the backward classes of people were gradually driven in to the still interior places. In order to give them necessary protection, therefore, the Protected Belts and Blocks were constituted”.

In other words, the Line System had suffered its premature death.

5.2. The Line System in its Historical Perspective: As indicated above, during the Colonial regime, the utmost aim of the British administration was to extract as much revenue and resources from the colonies as feasible. While they made colossal liberal grants of land to the European tea cultivators, so that the tea plantation in Assam could be used as a perennial fountain for flowing treasures to their homeland, they spared no pains to ensure that new virgin / khas lands were reclaimed and brought under cultivation of other crops like sugarcane, rubber, coffee, jute etc. There was also food shortage in Assam particularly in the context of increasing demand for food stock to feed the increasing tea gardens population. In order to compel the Assamese peasants to switch over from their traditional pursuits of agriculture to become tea gardens labourers, they even resorted to astronomical increase in their land revenue so that, unable to pay the high land revenue, they would be compelled to meet their shortage of garden labourers. When this did not happen, the Bengali Muslim peasants were procured for cultivation of new areas particularly for growing food products mostly from Mymensingh district. The occurrence of occasional epidemics and reluctance of the Assamese people to work hard in the crop field had acted as a facilitating factor for bringing more and more Muslim hardworking peasants from Mymensingh, Sylhet, Rongpur and Pabna districts of Bengal. Then the Muslim League of Assam which gathered more and more strength became a political force to be reckoned with. The Party's chief aim from the inception was to bring more and more Muslims to Assam and settle them in the Chars and various other classes of land including Government Khas /waste land, forest reserves, VGR, PGR as in the areas dominated by the tribal and other backward classes of people. Then Sir Sayed Muhammad Sadullah of the Muslim League who formed Muslim (coalition) Government five times between 1937 and 1945 openly adopted a policy of importing Bengali Muslim peasants to Assam on the alibi of growing more food products. He thus adopted a Policy called 'Grow More Food Campaign' and under the pretext of growing more food, he openly imported the Bengali Muslim peasants to Assam and settled them with very liberal allotment/settlement of land, mostly in the lower and middle Assam districts. For settling them in these virgin soils, a well orchestrated plan was executed. Assam had then plenty of virgin soil and lands were given to these Bengali Muslims by de-reserving forest areas, VGRs and PGRs, in addition to encroachment already made on the vast stretches of the Char lands spread all over the lower Assam districts. This open policy of importing Bengali Muslim peasants by the Muslim League leaders led by Sir Mahammad Sadullah had prompted the then Viceroy of India, Lord Wavell, to make a caustic remark, **“The Chief political problem is the desire of the Muslim Ministers to increase this immigration in to the cultivable government lands under the slogan ‘Grow More Food’, but the what they are really after, is “Grow More Muslims”.** Thus, Assam was soon reduced to a destination of encroachment of land and settlement of Muslim peasants on the encroached land.

5.2.1. Introduction of the Colonization Scheme: Thus, the imaginary line drawn to restrain the Bengali immigrant Muslim cultivators from making further inroads in the new lands of the protected class of people could not withstand the aggressive pressure on their land by the leaders of the Muslim League. When the Line System had to be abandoned and another scheme known as Colonization Scheme was introduced to protect their land from encroachment and grabbing in the tribal and other backward people dominated areas. As per this scheme, some schemes for development were sought to be executed in areas where the tribal people and the immigrant population were set apart. But this

again had failed to make any impact because the import of the immigrant Muslim had continued and they swelled to such huge numbers that the tribal people were scared to live in such an incongenial ambience. This led to the advent of the Tribal League which spearheaded the movement against systematic aggression on their land by the Bengali Muslim peasants. The natural question that arises is: What has gone wrong in the new arrangements? Let us examine some of its salient features.

5.2.2. Advent and Role of the Tribal League: During the 1920s, a wave of nationalism had swept the Bodo populace through the "Brahma Agitation". As the invasion on their land particularly by the immigrant Muslims increased and they had to leave their home and hearth and retract to more interior places, tension and agitation gripped their mind. It was a compulsion of history that the Tribal League which was the only political organization amongst the Bodo people fighting for preserving their land rights and the pristine entity, had emerged in the scene. The second phase of the league's agitation and movement against encroachment by the Bengali Muslims had thus come to be spearheaded by its most respected leader Mr Bhimbar Deuri. With his spearheading the movement, it had assumed a new dimension and significance.

5.2.3. The Tribal League, determined to foil the Muslim League leaders' plan to import and settle more Muslim peasants, re-organized the league and brought other tribal and backward classes organizations to be united and drafted in the League and then took tough stand against indiscriminate import of Bengali Muslim peasants. The tough stand taken by the Tribal League in the Assembly compelled Mahammad Sadullah, the Chief Minister of Assam to hold an all party conference on 31st May -1st June, 1940. Maulana Abdul Hamid Khan Bhasani, also took his firm opposite stand and wanted to see more Muslims to come and the Line System to go. Bhasani was a shrewd and capable Muslim League leader who hailed from Pabna district of East Bengal. After he came to Assam and settled at Dhubri of Goalpara District, he brought lakhs of Bengali Muslims and got them settled in the sprawling Char areas there. That Char is still named as *Bhasanir Char*. Mahammad Sadullah had full approval of Bhasani's mission of filling up the Char areas with the imported Muslims. Bhasani naturally grew in strength and stature and even became a Member of the Assam Legislature with the votes of these immigrants Muslims. In the meantime, a kind of political instability in the State had made the situation uncertain. The leaders of the Tribal League tested betrayal by the Government of Sadullah in that as per understanding between Sadullah and the Tribal League, it was agreed that the latter would support the former in forming the Government on condition that the Line System would be revived and sustained and further that, encroachment beyond the Line stopped. When this actually did not happen, the Tribal League entered in to an agreement with the Congress party under the leadership of G.N. Bordoloi. When the first independent Government under the leadership of Lokapriya Gopinath Bordoloi was formed with the support of the Tribal League, eventually, the Protected Belt and Blocks were created by adding a new chapter to the Assam land and Revenue Regulations, 1886 known as Chapter X , for protection of the land rights of the tribal and other backward classes of people as also their other interests . Unfortunately, the malady that had led to adopt this special measure did not meet with any better result either. Today, the non-protected classes of people living in the BTAD areas form majority with 71% while the tribal people have been reduced to mere 29% only. This sad state of affairs drives one to ask, as to what went wrong with the Protected Belt and Blocks?

5.2.4. Conditions for Creation of Protected Belts and Blocks: The principles followed as pre-conditions for constituting Protected Belt are (i) that the area must be predominantly inhabited by the tribal people and (b) that there must be sufficient lands for constituting a Tribal Belt and Block and (iii)

that the lands constituted in to Tribal Belt must be compact. It is only when the lands predominantly inhabited by the Tribal people are not compact, then **Tribal Blocks** are formed. Now, as would not be seen later, the inhabitants of the Tribal Belts and Blocks of the present BTAD area or parts thereof are neither predominantly tribal people nor are these Belts and Blocks free from encroachment by non-eligible persons, mostly illegal Bangladeshis. The unabated encroachment on these Belts and Blocks is supported by the harsh truth that the tribal population in the protected class now constitutes only 29% while the remaining 71%, comprise the majority, of whom the Bangladeshi immigrant Muslims or people of Bangladeshi origin. In fact, they are the ones who form the pre-dominant groups of the non-tribal inhabitants. So, the question necessarily arises: What protection can these Protected Belts and Block give to the protected classes of people, with a pre-dominant section of non-eligible persons to protect against whose land aggrandisement the Belts and blocks were created? The searching question that again arises is: Where does lye the rot? Before discussing this crucial aspect of the Protected Belts and Blocks, it is important to have some insight in the circumstances in which their predecessors, that is, the Line System and the Colonization System had failed.

5.3. Nature of Protective Measures under Chapter X: The protective measures envisaged under the Scheme of the protected Belt and Block includes the following:

1. Specification of Class of people entitled to protection (U/S 160)
2. Constitution of compact areas commonly called tribal belts and blocks and more precisely called protected belts and blocks in the areas predominantly inhabited by the class of people notified under the relevant provisions of Chapter X (U/S 61).
3. Disposal / Settlement of Govt. land by way of lease for ordinary cultivation and ancillary purposes thereto (U/S 163).
4. (a) Making provisions for acquisition of rights, termination and forfeiture of rights.
(b) Restriction on transfer of land by way of sale, mortgage, lease, agreement etc.(U/S 164)
5. Eviction of unauthorised occupants either in unsettled land, annual patta or periodic patta. (U/S 165)
6. Bar on jurisdiction of Civil Court (U/S 167), Section 168 deals with investment of powers of Revenue Officers, Section 169 deals with appeal, Section 170 deals with revision of proceeding.

5.3.1. Class of people entitled to Live in the Protected Belts and Blocks under the Notification:

Section 163(2) of the ALRR, 1886 describes the class of people entitled to have land and reside in the protected Belts and Blocks in the following order of preference: (i) the *bonafide* needs of those who were permanently residing in the area on the date of Notification under Sub section 1 of section 162 (ii) the *bonafide* needs of those who are temporary residents or are settlement holders but are likely to become permanent residents there. (iii) the *bonafide* needs of the entitled class of people who are residing elsewhere in the district and (iv) *bonafide* needs of other classes of persons residing in the neighbourhood of the Belt and Block if there be sufficient land available. Along with the people belonging to the Scheduled Tribes and Scheduled Class, the cultivators pertaining to the following classes of people are also notified as persons entitled to protection, namely, tea garden tribes, Santhals, Nepali cultivator-graziers (later their names were withdrawn but subsequently added again). In addition, the Koch-Rajbongshis of the old Goalpara district, that is, Goalpara, Dhubri, Kokrajhar, Bongaigaon and Chirang were also declared entitled class to reside in the protected Belts and Blocks.

5.3.2. Allowing the Ineligible Class of People to Live in the Belt/ Blocks Defeats the Purpose of creating the Belts/ Blocks: The most crucial point to be noted here is that as per provisions made in (i) above, the first category of people eligible to have land and live in the protected Belt/ Block include any person who on the date of constitution of the Belt and Block was living in the area permanently., or even though was living temporarily, there is likelihood of his living there permanently. He need not belong to the protected class of person but he can be of any ethnicity or religion. This enabled even the immigrant Muslim against whose lusty land aggression the protective Belts and blocks were set up, to increase habitation of people of their class. Nothing could be better example of s self-defeating farcical exercise than this provision, as if it was deliberately done to hoodwink those who were professed to be protected. It is absurd to allow two contradictory provisions to function together. Certainly, if the purpose for which the belts were created is to be served, then its barrier to protection should necessarily go. To be candid, the constitution of the Belts and Blocks was a game of high political pressure tactics and despite the fact that due to the severe opposition of the Muslim League leaders, the line system and the colonization schemes had both to be abandoned. The Muslim league wanted the Line System and the Colonization of the Scheme to go. Despite this living truth, what earthly reasons could be there to make the same set of land hungry Muslim peasants acting as predators, an eligible class for residing in the protected Belts/ Blocks? And, the absurd question is, protection against whom? The result is obvious. The Protected Belts and Blocks have now become the home and hunting grounds of the illegal Bangladeshis bulging probably in to millions.

5.3.3. Inconsistencies in the Rules of Chapter X: While all matters pertaining to settlement of land, conversion of annual patta land in to periodic patta land, annulment of settlement, registration of transfer, etc are to be governed by the exclusive provisions made in this Chapter X, Section 162 (1) reserves an opening for generalization of these provision. The provisions of section 162 are as follows ***“The State Government may, by notification in the Official Gazette, direct that the provisions of this chapter shall apply to the areas, or any of the areas, constituted into belts or blocks under the provisions of Section 161. On such application, the disposal of land by lease for ordinary cultivation, the nature and extent for rights conveyed by annual or periodic lease, the termination or forfeiture of such rights, the ejectment of persons in occupation who have no valid right in the land, the management or letting out in farm of land in certain circumstances by the Deputy Commissioner, and the other allied or connected matters shall so far as possible, be governed by the provisions of this chapter and the rules made there under”***. The phrase ***“so far as possible, be governed by the provisions of this chapter and the rules made there under”*** has the nullifying effect of the protective provisions. The question is, where, in the judgment of the Deputy Commissioner, application of the provisions in such case is not possible, the Deputy Commissioner shall be *led to apply the general provisions*. The discretionary powers reserved for the Deputy Commissioner should be done away with, as such discretionary powers are exercised, more often than not, injudiciously and under pressure of the political leaders thereby reducing the Deputy Commissioner to a mere scapegoat. This provision needs to be suitably amended or annulled

5.3.4. Registration of illegal/ Benami Sale of Tribal Land to Non-Tribal: After the commencement of the Assam Land and Revenue Regulation (Amendment) Act, 1964, transfer of land in any form in contravention of the provisions as amended shall not be registered under the Indian Registration Act, 1908. Sadly, however, in spite of such wholesome legal/ restraining provisions, registration of sale or other kind of transfers of land in the protected Belts and Blocks is methodically going on. It is reported

that the general *modus operandi* to cause such illegal transactions is through the mechanism of **Power of Attorney** or, as it happens, such transactions take place as '*Benami*'. The Committee feels that Government of Assam has a duty here to research in to practice of such evil practices to find out where the rot lies and should design corrective measures including making specific provisions that would plug the loopholes and put an end to such illegal transfer of land in violation of the legal provisions.

5.3.5. The Sanctity of Chapter X Must be preserved in Fact: The Committee is very clear in its mind that Chapter X was created only to protect the land and other interests of the protected classes of people and not to protect the interests of the ineligible classes of people. It is a paradox that such especially beneficial provisions have not served the purpose of protecting the weaker section of the society from the onslaught of the more advanced classes of people. **Therefore, there is hardly any ground for exempting any other classes of persons living in the Belts and Blocks from the operation of the provisions/ Rules made under Chapter X.** For instance, the Chapter leaves undefined as to what constitutes ancillary purpose to special cultivation. In order to control settlement of land only to eligible classes of people, its definition is a must. Thirdly, the word "non-cultivators" inserted in the said Sub-Section should be specified or defined as the related provisions are made only for the purpose of maintenance of the said non-cultivators. Fourthly, in making allotment of land from now onwards, only the entitled or eligible class of people should come within the zone of consideration. In other words, the provisions of Section 163 (2) (a) and (b) should stand so modified as to exclude all persons not conforming to the ethnicity, caste, clan, custom and religion of those who are or who constitute the protected class from being eligible to reside/settle in the Tribal Belt/ Block areas. Fifthly, all encroachment whether on annual patta land or on periodic patta (KPP) land should be liable to be ejected forthwith and the offenders should also be liable for heavy penalty. Further re-encroachment should earn the offenders imprisonment in addition to penalty/fine.

5.3.6. A case for Amendment of Section 162 (3): It is almost a public knowledge that these areas are now predominantly inhabited by Bengali Muslim peasants, thousands of whom were there from prior to the constitution of the Belts and Blocks. Ironically, they now constitute majority of the population in the BTAD areas. In other words, the encroachers of one time have become the protected class living under the protective wings of Chapter X. In this view, the Government of Assam may consider if provisions of section 163 (2) (a) & (b) of the Regulation should be so amended or even replaced so as to adopt one of the two alternative courses: (i) Delimit the boundaries of the Belts/ Blocks so that ineligible class of people settled in the Belts or Blocks should be isolated (ii) no non-eligible class of people settled therein on a date subsequent to creation of the Belt and Blocks shall be entitled/eligible to reside in the Belts and Blocks. If the Government wants then the provisions of section 163(2) (a) & (b) should be either deleted or suitably amended.

(ii) Then, under provisions of Section 162 (5) certain classes of land are exempted from operation of the rules/provisions of this chapter (Chapter X). The Sub-section reads as follows:

"The application of the provisions of this Chapter to any area as aforesaid will not affect-

(a) Land settled for special cultivation or purposes ancillary to special cultivation (including grants made for tea cultivation)

(b) *Lakheraj, nisfkheraj* or special estates settled with non-cultivators for their maintenance, which land and estates and the rights and interests therein shall continue to be governed by the provisions of the foregoing Chapters of the Regulation and the Rule made there under”.

As the chances of the Tribal or backward people doing special cultivation such as tea, coffee, rubber etc which necessitates huge investments are rare, if anything, the provisions for grant of land for special cultivation in the protected Belt/Block areas to anyone other than protected classes of people should be done away with.

5.4. Punishment for Violation of the Provisions to be more deterrent: The Committee recommends that the punishment for violation of these provisions whether as to illegal transfer of land from tribal/protected class of people to non-tribal/non-eligible class of people or as to encroachment on the land of these Belts and Blocks be made more severe and deterrent. Thus for illegal transfer of land, punishment of both the transferor or the transferee of land as provided in section 164(B) of the Regulation should be increased to two years imprisonment and to a fine of Rs.50,000.00. For re-encroachment by anyone who was once evicted from the land he encroached upon, the punishment should be even more deterrent.

5.5. The Deputy Commissioner giving such permission and the Registration Officer who effects registration of such illegal transfer should be made liable for prosecution and should, on conviction, be liable to pay fine of Rs. 50,000/- and should also face Departmental action including adverse remarks in Annual Confidential Report (ACR).

5.6. Anyone found encroaching on any land included in the protected Belt and Block shall be liable to be evicted forthwith.

5.6.1. The BAC Scheme under the Bodoland Autonomous Council Act, 1993: The Bodoland Autonomous Council (BAC) was established comprising the specified contiguous geographical areas under the Bodoland Autonomous Council Act, 1993 within the State of Assam to give the Council maximum autonomy within the framework of the Constitution of India, for social, economic, educational, ethnic and cultural advancement of the Bodo people residing therein. The loopholes in the scheme have been discussed in Chapter 9 of our Report and hence we avoid any further discussion in this chapter.

5.6.2. Reconstruct the Land Records/ Documents Lost During the Riot: The Committee also recalls with deep anguish that in course of its visit to Kokrajhar, when it asked for important documents relating to survey and settlement, sale or transfer of land, mutation orders, registration of sales deeds etc, the representatives of the BAC declared that all the documents asked for were destroyed during the riot of 2012. Nothing could be more serious to run an administration without relevant documents of the past to guide the present. Fortunately, however, the official from the NIC had access to some of the lost records which were furnished on the Committee's requests. The Committee feels that in order to dig in to the circumstances which caused the important documents to disappear, the Government of Assam orders an enquiry to be made by a high level committee and also takes step to re-construct the records as it is highly dangerous to run an administration with no records to guide.

5.7. Justification for Certain Additional Posts: The Government of Assam vide its Executive Instruction contained in No. RSD.7/84/288 dated.10/3/1993 agreed to place the services of certain

number of Chapter X posts of the Additional Deputy Commissioner (9 nos.) and (Extra) Assistant Commissioners (19 nos.) in the interest of smooth administration of the affairs of the BAC. It was, therefore, represented before the Committee by several organizations vide their Memorandums that 19 Number of EACs and 9 number of Additional Deputy Commissioners' services be placed at the disposal of the BAC to ensure prompt delivery of services to the common man. The Committee has no hesitation in recommending the filling up of the said posts committed to be placed at the disposal of the BAC. However, before creating these substantial numbers of post/ placing their services under the BAC, it should be ensured that their services are or can be appropriately used for the schematic benefits of the common people and that the duties and responsibilities of these officials clearly defined. This is important because when the function of the Deputy Commissioners in the BTC Districts remains hazy and unutilized, the placement of additional officers is bound to result in colossal profligacy and wastage of specialized human resources. In particular, the Committee had the impression that there is lack of co-ordination and clarity between the BTC and the DCs about the respective duties and functions of the Deputy Commissioner and the BAC. The division of duties between DCs and the BAC should be clearly marked either by amending the Act, if necessary, or by signing a Memorandum between the GOA and the BAC

5.8. Re-settlement Operation / New Survey and settlement Operations Not Done: As in most of the other districts of the State, resettlement operations have not been launched in the districts of the BAC. This has caused immense and indescribable hardships to the land holders. We have already described the tremendous hardships and sufferings gone through by the people of the districts inside and beyond the BAC. The Committee recommends that in the interest of alleviating the hardships and sufferings of the people of the BTAD, the Government of Assam (GOA) should take urgent and appropriate steps to conduct survey and settlement operations so as to grant the documents pertaining to land such as pattas, mutation orders, extracts of Jamabandis etc to all classes of stake holders /settlers/ Annual Patta holders subject to usual terms, conditions and usual restrictions applicable as per the relevant law/rules. It is also recommended that the non-cadastral areas within the BTAD should be brought under cadastral survey and the administration of the affairs there streamlined.

5.9. Grievances of the Indigenous Assamese People of the BTAD Represented: Several Organizations belonging to the indigenous Assamese/other indigenous people living the Udalguri district within the BTAD have submitted Memoranda to the Committee both in course of its visit to the district as also in its Office, narrating their sufferings due to (a) non-issue of pattas over their land which they have been enjoying since many generations past. (b) They had even expressed their fear and threat to their identity due to misconduct of certain local hooligans. These Memorialist Organizations include (i) Udalguri Jila Khilanjia Asamiya Bhasi Demand Committee (ii) Its Tongla Branch or Chapter and (iii) its Majbat Branch or Chapter. Inherent in these three memoranda is the threat perception to their land rights and identities. In addition, they demanded for conducting settlement operations and issue of land documents in their favour. They have expressed their sadness of hearts that though their lands have been enjoyed since the days of their forefathers who had reclaimed and developed these lands and made contributions to socio-cultural development of the society and the development of these localities, they have been treated as 'second class citizens' there. In fact, they have been holding and enjoying the land without ever having any document to support their right- a fact that has added fear psychosis in their mind and insecurity to their land rights and, therefore, to their continuance in their ancestors' land. Their prayer, therefore, is to ensure security of their land rights and their identities in the BTAD administration. These are highly serious expressions not to be taken lightly or to be brushed aside. The

Committee feels that the government has a duty to sort out such unfortunate developments and accordingly recommends that it takes such appropriate measures urgently to put an end to this unpleasant situation, as the nature of the grievances deserves.

5.9.1. Grievances expressed by Political parties and other Organizations: The other organizations which have submitted their representations include those filed by (i) Udalguri District Students' Union, (ii) Udalguri District journalists' Union, (iii) Assam Gana Sangram Parishad District Samiti Udalguri (iv) Bharatiya Janata Party, Udalguri District committee (v) Adivasi Mukti Sangram Samity of Assam (vi) Mangaldoi Nagarik Mancha, Mangaldoi (vii) Assam Santali Sahitya sabha and ((viii) Asom Gorkha Sammelan, Udalguri. These Organizations assert that the (a) land must not be given to the illegal Bangladeshis (b) Correct NRC must be prepared, completed and enforced, in order to protect the lands of the indigenous people from the aggressive clutch of the illegal Bangladeshis who have taken to setting up new villages overnight wherever they find any vacant land- be they VGR, PGR, forest reserved lands or any other land. (c) They have also demanded that all lands under encroachments by the illegal Bangladeshis / anybody who is not an Indian citizen be vacated. These are matters which fall within the normal purview of the Government and the Committee has nothing more to add than to say that matters like preparation of correct NRC, ban on transfer of land to illegal Bangladeshis etc are matters governed by the Constitution and law of the land and the Government needs no recommendations for doing such obligatory works.

5.9.2. It would be seen that there are three sets of demands represented in the aforesaid Memoranda: (i) the rights and status of the indigenous Assamese people living in the BTAD who feel threatened as to their identity, reduced to be the second class citizens. They demand that (ii) their status must be restored, (iii) their land rights/ pattas granted and (iv) their sense of insecurity must be removed by adopting appropriate measures (v) They must be given protected status in the Tribal belts/ Blocks (vi) the Gorkhas demand their rights over VGRs/PGRs and (vii) settlement in forest villages etc.

5.10. To Prepare Correct NRC and Detect, Segregate and Deport the Illegal Bangladeshis is a Pre-condition for Protection of the Land Rights of the Indigenous people : Several organizations have represented before the Committee that the NRC must be completed and the illegal Bangladeshis detected and deported, if the indigenous people were to be protected from the land grabbing illegal Bangladeshis who, of late, have taken to invade and grab the vast open areas of the state including the Char areas, and set up overnight villages in organised teams armed with dangerous weapons. In several cases while doing this, they have resorted to rioting. A genuine concern for protection of the land rights of the Indian citizens makes it incumbent on the part of the Government of Assam for detection of the non-citizens including illegal Bangladeshis. **So, the illegal Bangladeshis or any non-citizens shall, of necessity, have to be detected/ segregated and deported if only to ensure protection of the rights over land of the indigenous people of Assam.**

5.11. Conclusion: Non-Enforcement of the Existing Provisions in their letter and True Spirit is the Incurable Malady: The greatest stumble block to protection of the land rights in the Belts and Blocks has been the non-enforcement of the provisions made in Chapter X in letter and spirit. Doubts have been injected in the minds of the common people that the flaw lies entirely with the inadequacy of the legal provisions made in Chapter X. While such beliefs cannot altogether be brushed aside, and there are substantial loopholes in the Assam Land and Revenue Regulation, 1886 as discussed in the foregoing paragraphs, this does not represent the whole truth. In fact, there is not so much dearth of or fault with law as there are in the non-enforcement. As for instance, there is provision for ban on sale or

otherwise transfer of land of the tribal people to the non-tribal or non-protected class of people or for non-transfer of agricultural land for non-agriculture purposes to non-agriculturists. Yet, such sales or transfers are going on through invisible hands, reportedly in the guise of Benami sale or sale through the mechanism of the Power of attorney. Likewise, encroachment of land in the protected Belt or Block is required to be reported forthwith and the encroachers evicted. But such encroachments are going on in the very nose of the powers- that –be due to non-reporting and non-supervision by the concerned officials. This only means that the Government offices at different levels have degenerated in to such a low level that there is no authority who feels that such supervision or reporting action has any role to play. The administrative machinery is either callous or corrupt and in many cases, the administrative machinery is in the inextricable grip of the powerbrokers. The Committee recommends that the Government of Assam constitutes **A High Power Enforcement of Laws and Rules Committee to review and find out the reason as to why the laws are not enforced and to suggest measures for plugging the loopholes in them so as to ensure enforcement of the laws not only in the BTAD but also in the General areas of Assam.**

Chapter-6

“It is difficult but not impossible to conduct business honestly”

- Mohandas K. Gandhi

Tea Gardens of Assam and Associated Issues

6.1. Historical Insight: Just as Columbus’s discovery of America or Newton’s Law of Universal Gravitation could be said to be mere accidents, so also, discovery of tea in Assam by Mr. Robert Bruce in 1823 could be rather termed as a most welcome accident which earned Assam a global name and made her internationally famous. In that year, he visited Garhgaon on a trading mission where he met a Singpho Chief and learnt about the existence of tea plants. In the following year, his brother Mr. C.A. Andrews, in command of a Division on the outbreak of the Burmese War had visited Sadiya. He collected some plants from there which he submitted to Mr. David Scott who then forwarded the same to the Superintendent, Botanical Gardens of Calcutta for examination. There, “they were pronounced to be of the same family, but not the same species, as the plant from which the Chinese manufacture their tea” (Gait, Page 404). Then, a Tea Committee was formed. Fresh inquiries were instituted under the auspices of Captain Jenkins and the Report submitted by him and Lieutenant Charlton at last convinced the Botanists and the Government of the identity of the Assam plant with that of China. Finally, a copy of Mc Cosh’s Telegraphy of Assam published in 1937 and discovered from India office library confirms a write up in Jennkin’s own handwriting thus: “The tea Committee of Calcutta only became convinced about the end of 1835 that the tea of Assam was the true tea of commerce:” And “In 1837 Mr Bruce packed forty six boxes of tea, but owing to defective packing much of it had been damaged by damp before it reached Calcutta, and only a small portion was sent on to England” (Gait, page 407). The first Government tea plantation was located on a sandy bank near the confluence of the Brahmaputra and the Kundil rivers. But as the soil was sandy, it was not suitable for tea cultivation and the plants were removed to Jaipur where a new tea garden was opened. This was sold in 1840 to the Assam Company which later grew phenomenally and prospered. And, today’s phenomenal growth and spread of the tea culture and tea gardens could be rightly ascribed to the pioneering works of the Assam Company.

6.2. The Assam Company was highly induced, encouraged and attracted by the Colonial British administration to take to the tea cultivation and helped “to acquire extremely large areas of suitable land by grants, leases and purchases. It could also sell lands for the purpose of increasing its wealth. Initially, they helped the Company with the grant of an area of 33,665 acres under the Waste Land grant Rules of 1838. By the year 1859, the Company had planted tea in about 4000 acres of land only, mostly in

Sibsagar District” (Revenue Administration in Assam, 1990, Government of Assam, page 132-33). Given below are the Rules under which liberal grants of land to the white tea planters were made by the authorities:

6.3. Huge Grants of Land to the Tea Gardens: Favouring the tea gardens with ubiquitous grants of land at concessional rates of revenue or even free of revenue has been a practice prevalent from the days of the British colonial reign. But what was sad was that these undue favours granted with a design to exploit the resources of their colony lock, stock and barrel and enrich their homeland. These grants in many cases still persist in different forms and in this a tea friendly policy seems to have affected our national governments. In following such a policy, by none other than the government of Independent India itself, the latter seems to have been oblivious of the fact that the crushing scarcity of land is increasing and that while there are millions of indigenous people who have not even a piece of cultivable land to sustain their life or even to construct a roof over their head for shelter, the tea gardens hold huge tracts of excess land that they unable to and kept vacant. There are facts which show that quite a number of big gardens have encroached on huge Government lands and that the government has not turned its attention to recover such encroached land from their illegal occupation, wherever they exist. As will be seen, the affairs of land settlement with the tea garden smacks of ugly irregularities which can be ascribed, in many case, to the connivance of the Government officials at different levels.

6.3.1. Such undue favour or soft corner of the Government or their officials towards the tea gardens is, however, not a new phenomenon. It can be said that it has been a **chronic malady** which has been prevalent from the past and, therefore, needs urgent and appropriate remedy. It is pertinent to mention here that some of these anomalies were pointed out by the Assam Land Reforms Commission (Dwerah Commission), 1981, and in all probability the irregularities/ anomalies still remain un-addressed/uncorrected. Having this malady in mind, we cite some of the instances of violations of rules in allowing the tea gardens to enjoy Government land under the tea gardens of Assam, as pointed by the Dwerah commission of 1981. The instances cited below from the report of the Dwerah Commission are shown as **Annexure-VII**.

6.3.2. The Commission says (*Ref. Para2.56, page 19*) that Rule 5A (2) of the Assam Fixation of the Ceiling on Landholdings Act, 1956 allows the owners of the tea estates to hold land for future expansion of tea cultivation. The condition of that it must not be diverted for any other use and that the owners of the garden should give an undertaking to that effect. However, there are no provisions made for violating the condition of the undertaking given by the tea estates. In fact there are many cases where, taking advantage of this loophole many tea gardens after cornering huge excess land on the plea of future expansion of tea crop have retained the same for using for commercial purposes. Therefore, the Commission suggested amendment to the rule/ law so that after a reasonable time if no action to utilise the excess land was taken, the law should provide automatic resumption of the excess land by the government. It does not appear, these recommendations have been implemented by the government of Assam during the last three decades or so.

6.3.4. In the land Ceiling case of Hukanpukhri Tea Estate (TLC30/72) the proprietor of the TE came up with a proposal of decentralising the management by making divisions of the TE and that, they therefore, needed more lands separately for each division for ancillary purposes of each division. The Government accordingly allowed 140 acres more land for different ancillary purposes of each of the divisions. However, the commission found from the record that the land had already been granted for

different ancillary purposes of the Tea estates and there was no scope for granting additional land for the ancillary purposes. (Para 2.66/2.67 , page21)

6.3.5. The Commission noticed that Rule 5A (2) of the Ceiling Act, 1956 has been flagrantly violated at the government level by allowing retention of land by Tea estates **for future ancillary purposes** which was against the provisions of law. **No additional areas of land for future expansion can be allowed for future ancillary purposes based on area given for future expansion of tea cultivation.** Grant of 140 acres of land was, therefore, in violation of the law/ the rules and the Committee is not aware that a further action to take back the illegally transferred 140 acres has been taken back. The Commission also noted that under Rule 5(A) of the Assam Fixation of Ceiling on Land Holdings Act, 1956, the Collector could allow only an additional area upto 8 hectares, if no land was utilized for factory buildings, staff building, labour lines, hospital and dispensary, 11.82 hectares for staff buildings and 208.32 acres for labour lines and 20.40 acres for hospital. Therefore, there was no scope for granting additional 8 hectares of land for these purposes. The Commission observed that the Government orders passed in revision allowing additional 140 acres was therefore in violation of Rule 5(A) of the Act.

6.3.6. The Commission further noticed (Ref. Para 2.71, page 21) that surplus land acquired under the Ceiling Act from tea companies had been settled with an individual for the purpose of establishing a new tea state by the Government. Such orders in view of the Commission was violating of the provisions of section 17 (iii) which spell out different categories of persons eligible for getting settlement of such land. If it is so, it is a bad augury that the Government violates its own laws and rules. Such action only inspires other to violate the legal provisions.

6.4. Mothla Tea Estate (Ref. Para 2.73, page21): In this case, the surplus land of one tea estate was granted to another tea company on the plea that the latter has much less land than the ceiling limit. Ceiling land does not authorize the Government to make such appointment, as owner of such estate cannot be deemed to a landless cultivator. The Government order allowed the following lands in favour of the said Mothla Tea Estate :-

1. Sarkari Land	-	70 acres
2. Ceiling surplus land of Jokai Assam Tea Company	-	530 acres
3. Ceiling surplus of Bazaloni Tea Estate	-	480 acres

The transfer of such a huge area of land acquired from other tea companies as surplus land to Mothla Tea Estate was in violation of the provisions of the Act. There is no information as to what action had the Government taken to regularise the illegal transaction and take back the land so transferred for distribution amongst the landless persons which was the spirit of the Act.

6.5. Huge chunk of land transferred to Mokalbari Kanoi Tea Estate, Dibrugarh in Ceiling case No. 71/71-72 (Ref. Para 2.75 to 2.78, page 22): In this case huge area of land measuring 200 acres have been allowed to be transferred to the above company of the plea of maintaining compactness of the tea area. In fact, what is important under the provisions of the law is not compactness of the garden but the compactness of the planted area. A survey of the area confirmed that the cultivation in the entire tea garden was compact and though there was no case for transfer of any land to the said company on their baseless plea, these areas were transferred by misinterpretation of the provisions of the law.

6.6. The Case of Naharjan Tea Estate of Golaghat Sub-Division- revision petition in Ceiling case no. TLC 47/71-72 (Ref. Para 2.79(2), page 22): In this case the Government allowed the entire surplus land of 1573 bighas to be retained by the tea estate on the ground that it was not fit for ordinary cultivation and the company surrendered 1200 bighas at convenient place elsewhere. This is a glaring example of misapplication of law as Ceiling law does not provide for release of excess land duly determined by the Collector on the ground that it was not fit for ordinary cultivation. Apart from the fact that, there is no provision in the Ceiling Act for retaining excess land by a company on the ground that the said land is not fit for cultivation, the amusing fact is that the proposed 1200 bighas of land agreed to be surrendered by the said tea estate remained unidentified with no particulars as to their situation, dag nos. , patta nos. etc. were described. In affect therefore, there was no way the Government could have taken over the possession of the said 1200 bighas. Thirdly, there was no reason stated as to why the additional 373 bighas of land was allowed to be retained although these huge quantity of land formed a part of the ceiling surplus land. The overall conclusion in the above situation is therefore conclusive that the entire 1573 bighas of land were allowed to be retained by the Naharjan Tea Estate intact, thereby violating and making a farce of the provision of the Ceiling Act, 1956.

6.7. Jorehaut Tea Company of Sivasagar District in Ceiling case no. TLC 1/71-72 (Ref. Para 2.80 (3), page 22): In this case, Ceiling case was instituted against the said company and finalized by the Director of Land Requisition, Acquisition and Reforms in June, 1972. The case was finalized in a single hearing taking the petitions of 7 (seven) tea estates. The petitioner company objected to the single hearing on the one hand and on the other hand they prayed for allowing land for opening a "babmoo bari" for each garden. The section 4, sub-section 5 of the Act prohibits transfer or partition of any land on or after the commencement of the Ceiling Act, 1970. The land transferred in this case was therefore illegal.

6.8. M/s New Jetinga Valley and larching Tea Estate of Silchar Sub-division in Ceiling case no. LC No. 8/73-74 ((Ref. Para 2.84 (4), page 23): In this case, it appears that the Minister state in his order that the Collector allowed retention of land to the company much in excess of the accessible limit by revising his order dated 01/05/1976 on 05/05/1976, i.e. four days after of his own original order. The reasons for revision of his orders were not state by the Collector. Against certain items in the category of ancillary purposes, the Collector allowed the garden to retain **more land than what they actually claimed** in their return itself. The Minister instead of setting aside the order of the Collector himself pushed it back to the Collector for verification and action. The fact remains that the Act does not allow for retention of any land against the items of ancillary purposes. The total area of land involved in this irregularity is 158 bighas.

6.9. Progress of distribution of ceiling surplus land amongst the landless indigenous people of Assam: The Committee has made endeavour to collect up to date figures of total quantity of access land acquired under the various Land Reforms Act including Assam Fixation of Ceiling on Land Holdings Act, 1956, Assam (Temporary Areas) Tenancy Act, 1971, Assam Acquisition of Land under the charitable and institution etc. and the Government of Assam have been also making efforts to furnish the same. When these figures are received, a complete picture of the land acquired and the land settled amongst the landless indigenous people of Assam will be depicted by way of supplementing figures. Presently, the figures quoted by the Dwerah Commission vide its report at *Para 2.104 -2.105 at page 25-26* will give an idea as to the tardy progress of both acquisition of access land/ceiling surplus land and progress of distribution of such land amongst the landless people of Assam. These figures which

are described in a tabular form below will give an idea as to the progress of distribution of ceiling surplus land amongst the landless person.

Table -6.1

1.	Total area acquired	17,20,410 bighas
	(a) Tea garden	11,86,951 bighas
	(b) Individual	5,33,459 bighas
2.	Total area distributed	9,36,289 bighas
3.	Number of families	2,53,303 Nos.
4.	(a) Area distributed to tenants	6,37,892 bighas
	(b) Number of tenants	1,81,812 Nos.
5.	(a) Area distributed to landless persons under section 16	2,37,471 bighas
	(b) Number of persons receiving settlement under section 16	69,551 Nos.
6.	Number of ceiling cases disposed of	20,137 Nos.
7.	Number of ceiling cases pending	96 Nos.

Source: Directorate of Land Reforms, Assam

6.10. Wasteland Grant Rules of 1838: According to Waste Land grant Rules, also known as 45 years Lease Rules, one fourth of the total grant of land was revenue free in perpetuity. The point is, this grant with especially favourable term was a lease of 45 years granted to the British tea planters by the British administration to serve their colonial interests. It is not known whether this special lease was extended later on or not keeping the revenue-free status of the one-fourth land of the total grants. Nor is it known whether the entire grant of land was, or still is, under actual tea cultivation. In any case, after the expiry of the original lease, terms of each subsequent lease under which the lease was renewed should have been changed because, the special favours shown by the British Government to their compatriots were designed to serve the colonial interests and it was certainly not in the interest of Assam. Moreover, substantial chunks of the huge areas leased out to the then lessee was much in excess of the actually planted area which the government should have taken over and after being converted in to khiraj land, should have been settled with landless indigenous people of Assam. **The Committee recommends that the government (i) withdraws the revenue –free status of the one-fourth of the land (ii) takes over the uncultivated land (iii) evicts the encroachment of the government land.**

6.11. The Old Assam Rules of 1854: It is also known as 99 Years' Lease Rules. Under this rule, one fourth of the Grant area was revenue free in perpetuity (i. e, for 99 years). The lease of 99 years granted under this Rule had long expired and it is not known whether the first/original lease granted under this Rule had ever been renewed or not or, if renewed, under what conditions the lease had been extended or whether the revenue free status or any other special conditions granted under the said lease rules

were withdrawn or not or whether that portion of the revenue-free land has been assessed to land revenue or not. And distressingly enough, as in the general areas of the districts, the land under the 900 odds tea gardens also does not seem to have been surveyed and consequently, these gardens are not only possessing lakhs of bighas of uncultivated land but also enjoying the same either free or at paltry rates of land revenue. If these gardens have not been brought under the Assam Assessment of Revenue free Waste Land Grants Act, 1948, the Committee recommends that they should be done so immediately. When this situation is viewed in the context of millions of landless indigenous people, the poor ex-tea garden labour and the flood and erosion-affected people living for decades on the embankments or on the Highway, this make a very distressing and dismal reading.

6.12. The Fee Simple Rules of 1862: Under these rules, large compact areas were put up for auction sale subject to payment of an upset price of Rs 2/8 annas per acre. After the full payment of the value, that to instalments to be paid within ten years, the land became free from revenue and the holder became a proprietor. The lands granted under this Rule should have been subject to the Ceiling Act and after taking over the excess land should have been converted in to Khiraj land and distributed amongst the indigenous landless people of Assam

6.13. Fee Simple Rules of 1874: Under the upset price of the land sold was raised to Rs 8/- per acre. Other conditions were same as those under the Fee Simple Rules.

6.14. New Lease Rules of 1876: Under these rules, sale of land as Fee Simple were discontinued throughout Assam. There were no provisions any more for granting land free of revenue for any period of occupation. These grants were for a period of 30 years with the right of renewal. However, with the passing of the Assam Land and Revenue Regulation, 1886, a new set of Rules for settlement of lands for tea cultivation were notified. An important point to be noted is that the leasehold land obtained otherwise than through the Fee simple Rules could also be, redeemed to fee simple status by payment of 20 years' revenue at a time. The Committee's only concern is that the special benefits that were granted by the British Regime should go immediately exist, the rights of the tea garden proprietors should be equally extinguished, if not already done.

6.15. Growth and Expansion of the Tea industry in Assam: During the last 180 years or so, the tea industry of Assam has seen phenomenal growth and expansion, thanks to the British Colonial administration which pampered and encouraged its growth with all kinds of support and assistance including extravagant grants of land, a substantial chunk of which remained almost perennially unplanted. The fact, however, remains that neither the society has benefited from the benevolent grants of the past nor has the Government of Assam derived its full share of benefits in the form of land revenue, agricultural Income tax and the productive use of the huge grants of lands.

6.16. A Brief Picture of the present Tea industry of Assam: Although, the tea industry had taken roots in and expanded to other Indian states, Assam remains the topmost tea producing state of India and a leading tea producer of the world. Assam tea has maintained its international reputation and commands significant share in the World tea markets. The total area under tea cultivation in Assam accounts for more than half that of the country's area under tea cultivation. The industry provides employment to an average of 6.86 lakhs persons in the State which accounts for more than that of the country as a whole (11.1 lakhs)

6.16.1. As already mentioned above, Assam alone produces more than half of India's tea production. The estimated production of Assam works out at 642.0 thousand tonnes in 2016 which is being

produced in a 304 thousand hectare of land The Table below (Table 7. 1) depicts the picture of No. Of tea gardens, area under tea cultivation, total quantity produced and the average yield (Kg/ per Ha)

Table-6.2

Year	No. Of Tea Gardens		Area under Tea (in'000 hectare		Total Tea Production (in 000 kg.)		Average yield (kg/hectare	
	Assam	India	Assam	India	Assam	India	Assam	India
2007	825	NA	321.3	578	511885	986427	1593	1705
2008	760	1385	321.4	560	487497	980818	1517	1750
2009	760	1385	321.7	561	499997	978999	1554	1746
2010	760	1385	322	561	480286	966403	1492	1724
2011	765	NA	322	560	589110	988323	1830	1764
2012	78856	NA	322	579	590120	1111760	1833	1919
2013	69220	NA	322	564	629050	1208780	1953	2143
2014	77710	NA	304	564	610970	1208780	2010	2143
2015	83566	NA	316	564	526185	-	1665	-
2016	85344	NA	304	-	642180	-	2112	-

Note : 1. No. Of Tea Gardens shown from 2007 to 2011 refers to only Tea Gardens having area above 10.12 Hectare and excluding small Growers.

2. Area, Production and Average Yield estimated and subject to revision.

Source : Tea Board of India.

Table -6.3

Table showing District wise no. of Tea Gardens, Total Areas under Tea Estates and Total Areas under Encroachment

Sl. No.	Name of Districts	Total no. of Tea Estates	Total area under Tea Estates (in Acre)	Total area encroached by Tea Estates (in Acre)
1	Tinsukia	99	106015.17	190.78
2	Dhemaji	1	437.992	Nil
3	Bongaigaon	1	1396.23	Nil
4	Morigaon	3	1411.39	34.22
5	Dibrugarh	238	137728.8	308.9
6	Hailakandi	20	59108.39	164.21
7	Golaghat	102	141854.910	186.246

8	Nalbari	Nil	Nil	Nil
9	Barpeta	Nil	Nil	Nil
10	Dhubri	3	Nil	Nil
11	Karimganj	30	93599.4	Nil
12	Kamrup (M)	3	6976B-4K-10L	Reports awaited
13	Kamrup, Amingaon	3	5407.043	Nil
14	Goalpara	2	1417.85	Nil
15	Lakhimpur	10	16304.78	110.03
16	Darrang	7	3512.86	77B-2K-15L
17	Sivasagar	24	37491.39	118.168
18	Cachar	63	138464.891	2984.640
19	Jorhat	104	87574.404	100.195
20	Nagaon	49	30175.765	1284.164
21	South Salmara	Nil	Nil	Nil
22	Sonitpur	39	62138.43	873.25
23	Biswanath	28	163602B-2K-5L	---
24	Kokrajhar	} 34	129021B-0K-6L	114B-4K-10L
25	Baksa			
26	Chirrang			
27	Udalguri			
28	Dima Hasao	11	7372B	---
29	Karbi Anglong	22	25197B-4K-2L	200B
30	West Karbi Anglong	Nil	Nil	Nil
31	Hojai	Nil	Nil	Nil
32	Majuli	Nil	Nil	Nil
33	Charaideo	58	161920B-3K-0L	---
**Total		954 Nos.	1087399.443 Acre (Approx)	6484.563 Acre (Approx)

Note : It would be noticed that the Government of Assam has not indicated the date upto which the figures furnished to the Committee on November, 2017 relate. However, according to figures published in the book "Revenue Administration in Assam" 1990 , (a Government publication), the total area of land encroached by the Tea Gardens was 6148 Acres which is only marginally less than the figures furnished in 2017.

*** The total figures indicated in the "Total Row" has been calculated by the Committee.*

Source : Revenue & D.M. Department, Govt. of Assam

6.17. The Emergence of Small Tea Growers : A very positive development in the arena of Assam's tea industry has been the emergence of a bright young generation of entrepreneur taking to tea cultivation, particularly in the Upper Assam Districts, thanks to late Soneswar Borah, a [patriotic, honest socialist legislator and later the Agriculture Minister of Assam, who had constantly roared in the State Assembly like a lion protesting against massive encroachment of Assam's inter-State Border land by the Nagas resulting in not only denudation of huge forest lands of Assam but also resorted to extortion and harassment to the residents in Assam's side of the borders. With their coming in to the scenario, Assam had witnessed a spurt in her production graph. During the last three decades, there have come up around 1 lakh small gardens accounting for two hundred million KGs of tea produced. Most of the small tea growers are first generation entrepreneurs and they have all throughout their entry in to the

field fought innumerable obstacles for their survival which, inter alia include, land, capital, absence of market for their leaves and so on. According to the Report of the Economic Survey, Assam, 2016-17, the total production of tea in the gardens of the small tea growers amounts to 106881 thousand KG cultivated in 88674 hectares of land in Assam. It would be seen that these small tea growers of Assam has played an impact-making role in boosting up the economy of Assam and given certain much needed assistance, they can play even a much greater role in solving the unemployment problem of Assam.

6.18. Enforcement of the Ceiling Act or determination of an economic holding should be fixed:

While the name and fame of Assam as one of the leading tea producers of the world are well-accredited, the management of the lands under the tea gardens of Assam leaves much to be desired. The point is that the Assam Fixation of ceiling on Land Holdings Act, 1956 does not really apply. As there is no ceiling applicable to tea gardens, huge quantities of uncultivated/ surplus lands are held by many gardens which is a national loss. There is no such thing as economic holding in case of tea gardens so that a kind of limit to their holdings may be fixed. Of course, what constitutes an economic holding for a particular tea garden has nowhere been defined. It should also be understood clearly that the definition of an economic holding cannot be a fixed concept but has essentially to depend on the dynamics of a particular garden, the involvement of capital investment, cost of infrastructure and establishment cost of which necessarily varies. Further, quantum of land for tea cultivation or to defray costs for ancillary purposes may also vary in each individual case. As against this, the definition of "ancillary purpose" has in many cases been misinterpreted or manipulated or distorted so as the grab huge excess land than is permissible under the relevant provisions of law. There are also cases where the tea gardens have been abandoned by the proprietor and while they have long ceased to pay land revenues, excise duty or other cesses as also agricultural income tax they have been enjoying the gains accruing from the seemingly functional plantation. There are still some other cases where the income from the abandoned tea gardens has been enjoyed by some middlemen or brokers and things like that. All these illegalities have happened due to lack of proper government management or mismanagement of the lands under the tea gardens. It must not be forgotten that land is the scarcest, most treasured assets given by the mother earth and it is beyond the humans to increase even an inch of it. Viewed in this concept, there should be a kind of limit to the total holding of land by a tea garden not to fall below an economic holding with reference to each specific or a reasonable ceiling on land holding should be fixed by the government.

It is on this logic that the Committee recommends that the concept of economic holding in respect of the tea gardens should be introduced and appropriate definition made such that each garden can subsist with a respectable margin of net profit. Or alternatively the Assam Fixation of Ceiling on Land holdings Act, 1956 be enforced with relaxed condition.

So far as illegal occupation of land by tea gardens or holding vacant or excess land beyond what is necessary, or the cases of abandoning the tea cultivation while using the land for some other purposes of earning huge profit from the abandoned tea garden, we cite below the following cases. The facts stated are as described in the memorandum submitted to the Committee by a Committee known as the "Pub-Guwahati Bhumi Sanskar Samity, Choonshali, Noonmati:-

6.19. Choonsali Tea Estate: In the year 1869, the then British Government of India leased 7500 bighas of land for 99 years to three brothers of a British family, namely, Mr. P. C. Dombrain, E. Dombrain and M.B. Dombrain for opening a tea garden at Choonsali area situated in the eastern part of the city of Guwahati city. They had started a tea garden in the name and style of CHOONSALI TEA ESTATE. The tea estate was running till 1947. During that period, a portion of the Choonsali TE land had been alienated and a new tea garden in the name of Tepesia Tea Estate was started out of the Choonshali Tea Estate. Presently this new tea estate is known as the Sonapur Tea Estate. After division of the estate, the area of the Tepesia Tea estate was 2795 bighas while that left with the Choonsali Tea Estate measured 4905 bighas. After independence of India, the last tea planter CWR Dombrain being alone and unmarried wanted to go to England after 1947. He closed down the tea estate in 1947 and sold 913 bighas 2 kathas 19 lessas of land to various people/ organizations between 1947 and 1989. There were approximately 3992 bighas of land which remained with Choonshali Tea Estate as in 1989.

Meanwhile the capital of Assam had shifted to Guwahati from Shillong in 1972. As we know, there were no sufficient infrastructure facilities available in Guwahati city at that time and hence people started settling at Choonshali Tea Estate land. The last British planter CWR Dombrain desperately tried to sell the remaining portion of the land as soon as possible. The settlers obviously resisted and the result was that there were clashes between CWR Dombrain and the settlers since 1970.

6.19.1. As the Choonshali tea garden was virtually abandoned by Dombrain and company, the entire land measuring 4905 bighas should have been reverted to/resumed by the Government of Assam. However, this was not done and the then owner of the tea garden, after selling the said 913 bighas of land, was desperately trying to sell the remaining land also. But in view of the fact that the capital of Assam was shifted from Shillong to Guwahati in 1972 and families of the Assam Government Employees having no homes at Guwahati occupied the land in question of the abandoned Chooonsali tea Estate. So, there was a tussle between the settlers and Mr. Dombrain. To resist further sale of the abandoned tea garden lands, the settlers formed a Committee on 4th August, 1970 at Madhabpur, Noonmati in the name of Pub-Guwahati Bhumi Sanskar Samity (PGBSS). The PGBSS also submitted memorandums to the then Chief Minister of Assam, Shri Charat Chandra Singha, the then DC Kamrup and the then Revenue Minister of Assam requesting to take over the entire lands as ceiling surplus land under the Urban Land Ceiling Act, 1976 and settle the same with the settlers who were genuine landless people, they claimed. Accordingly, the Assam Government had slammed the Ceiling Act vide order no. RRT/1838/76/149 dated 18/12/1984.

After this imposition of Ceiling Act, 1976, Mr. CWR Dombrain issued Power of Attorney to Dr. Anjan Barkataki vide Deed No. 2691 dated 07/08/1989 for selling the entire land of 3992 bighas 2 kathas 19 lessas, which was illegal. In the meantime, Dr. Anjan Barkataki, the Power of Attorney holder for CWR Dombrain, entered into an agreement for sale and purchase of the land with M/s FRONTIER ASSOCIATES, Ambari, Guwahati on 25/08/1989. M/s FRONTIER ASSOCIATES, a company owned by Mr. Ajit Barkataki was the uncle of Dr. Anjan Barkataki. It was evident that the entire design of giving Power of attorney and selling of land to Messrs Frontire Associates was a ploy to defraud the law and to misappropriate the gains arising from the sale of this huge chunk of priceless land. As per the agreement of Sale, the price of land was fixed at Rs. 153/- per bigha of land in 1991. The entire land of 3992 bighas 2 kathas 19 lessas were sold at sum of Rs. 5,00,000.00 (Rupees five lakhs) which was paid by pay order no. 056104 dt. 27/07/1989 and Rs. 1,11,000.00 CA no. 145324 dt. 24/07/1989 respectively.

Most surprisingly, there was no prior sale permission obtained from the then DC, Kamrup. Without the sale permission the sale Deed no. 3200/91 dated 01/06/1991 was executed by Registrar, Kamrup. DC, ADC, Revenue, Circle Officer, Kamrup. The concerned officials including the Mandals were obviously involved in this fraud but no action was taken against any one nor was the illegal sale annulled..

The people of Choonshali grant started series of agitation against the fraudulent sale of the land and urged the Assam Govt. to cancel the sale deed immediately. Accordingly two cases vide No. 294/92 and TA 48/93 were filed at Judge's Court Guwahati by *Brihattar Guwahati Bhumi Samannay Samity* with the help of Pub-Guwahati Bhumi Sanskar Samity, Noonmati.

The then AGP Govt. in Assam did not take up the case seriously. Moreover the then Advocate General of Assam was a close relative of the Director of M/s Frontier Associate. So, this was a matter between the parties who were highly interested. As expected, the case being stage-managed, the court verdict had gone in favour of M/s Frontier Associate on 12/08/2005.

The Samity has been demanding settlement of land with the occupiers who had been living there since 1980s onwards. The memorialists have reported vide their memorandum dated 16.07.2017 that the Hon'ble High Court in the meantime had passed an order directing the Government of Assam not to allot Government land to those settlers who already have land in his or his family's name. It is not known if the settlers have appealed against the order of the Hon'ble High Court but they have demanded settlement of land of the said Choonshali Tea Estate on which they have been living for the last 40/50 years and also demanded of the Government of Assam not to evict them.

It would be seen that the anomalies have stemmed from the fact that the Government of Assam had failed to resume the land comprised in Choonshali Tea Estate after the tea garden was abandoned by the owner. Had timely action been taken to resume the land soon after the abandonment of the tea cultivation, the problems which ensued later on would not have arisen. Secondly, the provisions of the Urban Land Ceiling Act, 1976 which became applicable after the land ceased to be under tea cultivation, if applied timely, the illegal sale of 1300 bighas of land to M/s Frontier Associates could have been averted. Thirdly, the sale which was concluded without obtaining prior sale permission from the DC, Kamrup, had made the sale illegal. Fourthly, if what the memorialists have stated is correct, then it appears that the Hon'ble High Court's order is not to settle land of the erstwhile garden with those settlers who have already had land in his or his family's name. Thus, there is no restraint on allotment of land to/settlement with those settlers who have no land in his or his family's name. As these settlers have claimed that they have been residing in the land of their occupation during the last 40-50 years, Government may take steps to settle the land with those settlers who have really no other land in his or his family's name, subject to fulfilment of all eligibility conditions, particularly in view of the fact that, the Government of Assam had displayed utter negligence in the management of the large areas of land once settled with the Choonshali Tea Estate and abandoned long back.

6.20. Sonapur Tea Estate: As has been stated in a foregoing paragraph, the Sonapur Tea Estate was set up by division of the Choonsali Tea estate in to Choonsali and Tepesia (Sonapur) Tea estates. The area of the new tea estate (ie; sonapur TE) was 2975 Bighas of land. Just approximately 30 Kms east of the Choonsali tea estate, this was one of the most beautifully located and profitable tea gardens with advantages including highly developed transport and communication network that stems from its ideal location adjacent to the national Highway. The area of around 3000 bighas of land was also sufficient to

constitute the garden an economic holding. But due to certain internal difficulties of the proprietor, the tea garden had been abandoned by the proprietors several years past. It appears that even after its management was abandoned, the lush green tea plants existed with their vibrant and luxuriant growth, such that its abandoned look was nowhere visible. The Committee had occasion to visit the tea garden on 20 May, 2017 and was impressed with the lush green thick tea bushes, with the forests and shade tree standing as their vanguard all around. There were signs of life there all around.

6.20.1. The Committee visited the office of the local circle officer on 20.05.2017 at Sonapur. The circle officer was a young active ACS officer, who was up and doing and smart enough to have all the facts at his finger's tips. A meeting with the local stake holder/ individuals and organizations was arranged by him and the participants had freely exchanged their grievances. The main grievance was that the tea garden was situated in the Kamarkuchi NC village of Paanbari mauza covered by Dag Nos 290,291,292 and 364 comes to 1089 B3katha and 11 lessas. The entire area of the tea garden; was grabbed by the DonBosco Society/ University for which they have no legal documents/ appropriate authorities. They have claimed that out of the total land of 1089 Bighas odd land, they have got mutation of their name in 421 Bighas. These areas under their occupation are covered by dag nos stated above 1089 bighas, 3 kathas and 19 lessas. However, as per the notice served on Sri Stiffem Moveley by the Circle Officer, Sonapur dated 19.5.17, there is another 421 Bigha in addition to 881B 3k 11 lessa of land in the Kamar-kucchi NC village

6.20.2 The legal position is that because of the fact that the actual proprietor had long abandoned the garden and he could no longer claim to be a tea cultivator, he should have surrendered the land covered by the tea garden, since the purpose for which the land was granted was no longer existent. And the government, on its part, should have resumed the entire land immediately thereafter. This is particularly so because the Circle officer and the land record staff including the Recorders/ Mandals whose principal duty includes, reporting of encroachment of land, preparation and maintenance of land records, collection of agricultural statics and assistance of revenue administration under section 15 and several other sections of the Land Record Manual, 1906, should have reported this illegal sell of land, occupation of the land by the Don Bosco University, construction of the series of University buildings over more than a year , felling of trees and cutting of hills and moving of earth and all that. This is despite that fact that felling of trees and/or cutting of hills is banned by the orders of the Hon'ble Supreme Court of India. Such a long series of illegal activities going over a long period of time could not have been going on without being seen by the Government official. The Committee recommends that a high level enquiry be conducted and the guilty officials punished in addition to take legal action for getting back the land under the DonBosco University

6.20.3. Another important matter was that the entire land in the Kamarkuchi NC Village has not been brought under cadastral survey. It is unthinkable the Government authority would have violated its own rules to allow settlement in the non cadastral village. The Supervisory Kanango had the SDC/ Circle officer on his part has the duty of supervising the duties of the recorders and of the Supervisor Kanango (SK) and also to ensure that only the legal mutate names of purchasers of land, based on legal documents including sale deeds , permission of the deputy Commissioner etc etc are mutated. The SDC/ Circle officer is ought to know that without the legal sale document and permission of sale from the Deputy Commissioner, no sale could be registered/ mutated. However, strangely enough, all these officials had failed to do their duty when the Don Bosco authorities had occupied the vast area of land of the abandoned tea, constructed the University with series of Building, constructed infrastructures, cut hills, felled trees and moved earth within the tea garden complex, and, mutated their names, as they

have claimed, over 421 Bighas of land which formed part of the tea garden land. It was duty of the mandals to prepare land records, make field visits and report encroachment or abandonment of land and the illegal. And, sale/ occupation of the tea garden land by the Don Bosco University/ Society should have been reported to the higher authority for eviction.

6.20.4. The most surprising thing was that a sprawling University complex within the tea estate land had come up vibrantly. That university is the Don Bosco University. The educational Institute was set up by destroying the tea plants and a vast area of forest lands. The Committee had been a witness to the illegal act of felling trees and cutting hills and moving earth in full swing in the broad day light in the presence of police. The wanton felling of trees in the area thus cleared was very much evident, the bulldozers were in action even in the presence of the Committee members. The local revenue official were inspecting the site of the University making inquiry in the relevant facts such as who gave them permission to set up the university in the tea plantation land etc, despite the restrictions/ ban imposed by the Hon'ble Gauhati high court etc. The manager of the University was called and as he was unable to show any relevant document, the police had arrested him for violation of the law and the orders of the court.

6.20.5. On the visit of the Committee , the Circle officer, Sonapur and the officer of the sonapur PS also visited the place where the Don Bosco University had constructed the buildings and both the officials having demanded relevant documents relating to purchase of the land, permission to buy or permission to construct the buildings or to cut hills, or to fell trees and to move earth, the Don Bosco authority had failed to show any document and they had in writing admitted later on that they had had no supporting documents for what they had been doing. The manager of the University was taken to custody and what happened later on, is not known to the Committee. The Committee has no idea as to whether there is any case against the Don Bosco University at all or not but the people who were taken in to custody were reported to be freed on the very next day.

6.20.6. The Committee thought it proper to bring this and 2/3 other similar ugly instances to the notice of the Government of Assam vide a comprehensive note written on 28 June, 2017. Extracts of the said note read as follows: -

“During our visit to sonapur revenue circle on, very serious complaints were made by the local people in respect of encroachment of Govt. land by the Don Bosco University situated at sonapur. Having received such complaint, Committee made a spot visit in and around the Donbosco University area. While inspecting the areas, Committee found that a lot of forest properties have been destroyed in order to make inner ring roads and in constructing various building of the university. Therefore, in this respect we would like to know the following aspects in details:

- (i) The Committee would like to know what was the existing legal status of the Sonapur tea estate as on 2016.
- (ii) Whether Donbosco University is established in the aforesaid area with the prior permission of the Govt. of Assam?
- (iii) Whether Govt. of Assam has allotted any land to the University? If so what is the area of land allotted with boundaries. Whether the required premium has been paid to the Govt. of Assam and whether all legal formalities have been undergone in allotting the land.

- (iv) Whether the land purchased by the Donbosco University from the sonapur tea estate authority, the sonapur tea estate authority has obtained prior permission from the Govt. of Assam while the selling the above land?
- (v) What is the area of land purchased by the university authority from the sonapur tea estate and at what price?
- (vi) Whether the land purchased from the sonapur tea estate by the university authority is already mutated in the name of the university authority and whether any patta in respect of the said land is issued to the university authority?
- (vii) The circle officer, Sonapur revenue circle informed the committee members that an enquiry in this respect has already been made by the revenue authority and the enquiry report is already submitted to the Govt., if so a copy of the enquiry report may be furnished to the chairman of the committee.

It is also important that during our visit and discussion with the local people/ stake holders/tribal NGOs of Sonapur, they had levelled serious allegations against the State Govt. for compromising the health and environment of the area due to the presence of Star Cement Factory and also large number of Coke oven plants along the GS road particularly the national highway from mile stone no. 9 to Burnyhat Assam border area. The public made serious complaints that the said industrial units were causing serious health hazards affecting not only the health of the human being but also the plant nurseries and orange gardens of Sonapur. The Committee recommends that the State Govt. of Assam examines these serious complaints/ issues to protect the environment by adopting immediate remedial measures as also to clear the land from encroachment, if any.

It was also brought to the notice of the Committee during its field visits that large scale sale of forest land and Government lands had taken place. The beneficiaries are several large scale commercial establishments/Institutions, Training Centers, Colleges, Resorts, Dhabas etc. which are causing large-scale destruction of flora and fauna are going on smoothly. **The committee suggests that corrective action** should be taken by the GOA

6.20.7. It is also relevant to note here that the Committee sent the note referred to above to the Government in the hope that the Government would feel concerned at such illegal activities going on. The Committee also sought to bring it to the notice of the National Green Tribunal a very serious thing which is that a cement company of the name of Star Cement had opened its cement factory adjoining the tea garden complex causing large scale pollution and violating the rules/ law and the order of the Hon'ble Supreme Court of India. The committee also visited the Jorabat area on the Assam side where a series of various factories were opened and the ecological balance of the entire area was destroyed. We were, however, thoroughly disappointed that the Government of Assam, instead of forwarding our note to the National Green Tribunal (NGT) had sent a curt reply to the Committee saying that the Government was competent enough to solve the matter and that the Committee had not to worry about this. (Copy of the reply from the Government is quoted below). Considering that the Government was disinclined to refer the matter to the NGT due to its own constraint or exigency, the Committee took upon itself the task of bringing these grave acts of violations of the law to the notice of the NGT. (Copy of the letter addressed by the Chairman of the Committee is quoted below). Hopefully, the Government

of Assam will take appropriate necessary action with due seriousness and pursue effectively to match its competence and the gravity of the violations of law. It is also expected that the NGT will take due cognizance of the matter, having regard to its serious fallouts, and take necessary action.

GOVERNMENT OF ASSAM
REVENUE AND DISASTER MANAGEMENT (S) DEPARTMENT
ASSAM SECRETARIAT (CIVIL), DISPUR
GUWAHATI-6

ECF No.10148/2017/8

Dated Dispur, the 10th July, 2017.

From : Shri D. Das, ACS,
Joint Secretary to the Govt. of Assam,
Revenue and D.M. Department.

To : Shri H.S. Brahma, IAS (Retd.),
Former Chief Election Commissioner of India
and Chairman of the Committee constituted for ensuring
protection of land rights to the indigenous people of the State of Assam.

Sub : Letter to the Chairman, NGT – regarding.

Ref. : Your letter dated 23-05-2017.

Recd GN
16-7-2017

Sir,

With reference to your letter on the subject cited above, I am directed to say that the issues mentioned in your letter are under examination and necessary action as per provisions of law will be taken thereon.

As the Govt. is competent to take action on the issue, there is no need to go to the National Green Tribunal.

Yours faithfully,

[Signature]

Joint Secretary to the Govt. of Assam,
Revenue & D.M. Department.

Memo ECF No.10148/2017/8-A

Dated Dispur, the 10th July, 2017.

Copy to :-

1. Shri Manoj Kumar, IAS, Director of Land Records & Surveys etc., Assam and Secretary to the Govt. of Assam, Revenue & D.M. Deptt. for kind information.
2. P.S. to the Principal Secretary to CM, Assam for kind appraisal of the Principal Secretary.
3. P.S. to the Chief Secretary, Assam for kind appraisal of the Chief Secretary.

By order etc.,

[Signature]
Joint Secretary to the Govt. of Assam,
Revenue & D.M. Department.

.....

From : H.S. Brahma, IAS (Retd),
Former Chief Election Commissioner of India and
Chairman of the Committee for Protection of Land Right
to indigenous people of Assam, (Govt. of Assam).

To : The Chairman,
National Green Tribunal,
Faridkot House, Copernicus Marg,
New Delhi-110001.

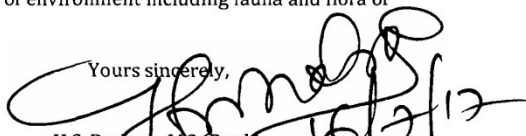
Dated..... 16/7/17

Sub : Destruction of existing Tea Estate, green hills of adjoining Amsang Reserve Forest
and establishment of private educational and commercial establishments including
Resorts in the Sonapur tribal belts of Kamrup (M) District in Assam.

Respected Justice Swatanter Kumar ji,

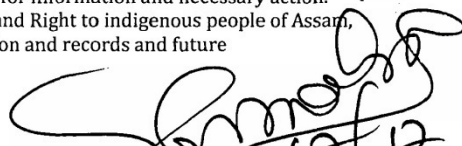
I regret to inform you that this committee for protection of land rights to indigenous people of Assam under my Chairmanship having Five (5) distinguished members visited Sonapur tribal belt under Kamrup (Metro) District on 20th May, 2017. The Committee had a detailed meeting with the local tribal/administrator/revenue officials of the District/Stakeholders. There was a huge uproar against the willful destruction of existing tea gardens (Sonapur Tea Garden), green hills, reserve forest (Amsang Reserve Forest) from the participants/local indigenous tribal people. It has been noticed that there is a systematic violation of the provisions of the Forest Conversation Act, 1980, The Wild Life Protection Act, 1972 and Environmental Protection Act, 1986 besides, flouting the chapter X of the Assam Land & Revenue Regulation, 1886 which prohibits such activities including the degrading of the soil of the area. The public and the stakeholders also raised allegation of flouting the Assam Land & Revenue Regulation (ALRR), 1886 by permitting transfer of tribal land to non tribal basing on spurious power of attorney routes where local tribals are made the sleeping partners of the private and business enterprises taking advantage of their innocence and ignorance thereby gaining huge benefit at the cost of the indigenous people of Assam. They have been complaining to the committee that apart from encroaching upon Government land, they have also started systematically occupying tribal land in tribal belts in a clear violation, inter-alia, of the provisions of the Chapter X of the ALRR, 1886.

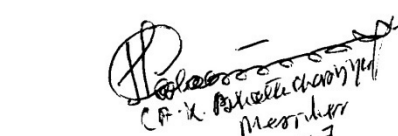

They have submitted large number of petitions/memorandums to us. However, we are forwarding only few of them for your kind perusal and necessary action. Feeling it to be an urgent need of the time, this committee has initiated suo-moto action purely in the interest of the indigenous tribal people of the area and the protection of environment including fauna and flora of the region.

Yours sincerely,

H.S. Brahma, IAS (Retd) 16/7/17

Copy to :-

- 1) The Chief Secretary, Assam, Dispur, Guwahati-781006 for information and necessary action.
- 2) The Member Secretary, Committee for Protection of Land Right to indigenous people of Assam, (Govt. of Assam), Dispur, Guwahati-781006 for information and records and future correspondence.


H.S. Brahma, IAS (Retd) 16/7/17


CF: X. Anwarul
Member
16-7-2017
Padma Shri Anwarul
(Apny Koo Ditta)

16/7/17

6.21. The Committee recommends that the Government of Assam takes appropriate corrective/ legal action to remedy the evils pointed out vide the above paragraphs.

6.22. The Assam Tea corporation in Bad Shape: The Assam Tea Corporation (ATC) was set up as a public sector undertaking with the idea of transferring the benefits to the common people in terms of employment etc. The ATC has altogether 14/15 tea gardens covering an area of approximately 13000 ha. Around more than 16, 000 tea labourers and other employees were employed by the Corporation. However, the saddest part of the story is that almost all the gardens are sustaining huge accumulated loss. Most of the employees / labourers have found themselves out of works, much to their misery. On the other hand there are certain statutory commitments which have to be discharged such as liability of provident fund etc. The main factors which have brought the sad state of affairs is mismanagement of the tea gardens. The Committee recommends that the government of Assam causes an enquiry to find out the reasons for such a lamentable state of affairs and take steps to revive at least a few of them. Otherwise, there should be given a reconsideration to the matter and decide as to what action should follow next rather than allowing this uncertainty to hang on indefinitely.

6.23. Conclusion: The question that should receive the top most priority in regard to management of the tea garden lands is (i) eviction of encroached land by the tea gardens (ii) resumption of vacant or uncultivated land (iii) determine the size of an economic holding for each garden having regard to their average size, investment made, infrastructure needed or created and the administrative cost. It hardly needs a new emphasis that the criterion of what constitutes an economic holding need not necessarily be fixed or rigid but has to depend on the dynamics on the whole host of circumstances in which a particular garden fights itself in (iv) Keeping in view the fact that most of the economic benefits accruing from the production and sale of tea in both domestic and international markets have gone out of Assam, the Committee suggests that the Head Offices of most of the companies as also that of Indian Tea Board should be shifted to Assam, that (v) the tea auction centre of Guwahati be enlarged and a perceptible percentage of tea is transacted locally in the Guwahati tea auction market rather than transacting the bulk through the Kolkata Tea Auction centre (vi) lastly a through survey of the entire tea gardens of Assam to find out the total number of gardens, the total area of land occupied by each of them, the area of land under encroachments, the vacant land, the land diverted for other uses, the payment of increased land revenue, taxes, cesses, duties and the exigency of revising them should be gone into afresh by a Commission to be appointed for this purpose.

Chapter-7

“Religion is inner side of Civilisation”

-H.D. Majar

*“Although the king is invested with Authority and power,
true sovereignty belongs to dharma, not the king”*

Mahabharata, XII.71.26

Protection and Development of Religious and Charitable Institutions

(Satras, Temples and Wakf Land)

Part-A

Satras in Assam

7.1. The name *satra* originates in the Bhagavata Purana in Sanskrit (*sattra*), and is used in the sense of an assembly of devotees. During Sankardev's lifetime, the devotees assembled in the open, under trees. Though temporary prayer houses were built, the tradition of devotees living in the premises did not happen during Sankardev's lifetime. The first mention of the *hati* is found in the context of the Patbausi Satra of Damodardev. Madhavdev built the Barpeta Satra, and laid down the system of daily prayer service and initiated the system of religious tithes. Vamsigopaldev was instrumental in establishing Satras in eastern Assam. Though the Ahom kingdom initially resisted the ingress of religious preceptors it finally endorsed the Satras enabling them to establish themselves on sound economics, make themselves attractive to the lay people and spread the Ekasarana religion. Soon Majuli, in eastern Assam, became a center of Satra tradition and authority.

7.2. Structures:

The Satra is generally a four-sided enclosed area with four gateways (*karapat*). Centrally placed in this enclosure is a rectangular prayer-hall (*Namghar* or *kirtanghar*) at the aligned in the east-west direction. On its eastern side there is an additional independent structure called the *Manikut* (jewel-house), the *sanctum sanctorum*, in which the *asana*, a wooden tetradhral structure with four carved lions), is placed containing the main object of worship (usually a copy of the Bhagavat Purana in manuscript or an idol). The namghar is surrounded by four straight rows of huts, called *hati*, in which monks (*bhakats*) reside. The *adhikara* and other high officers of the Satra reside in the eastern *hatis*.^[12]

All structures were originally temporary, made with wood, bamboo and covered over with thatch; brick and mortar found use after the 18th century.^[13]

Monks, called *bhakats*, live in satras under a *satradhikar* or *Mahanta*. In some orders of the religion, the *bhakats* are celibate (*kewalia bhakat*). The satras are not merely socio-religious institutions but have played, as it were, primordial cultural and historical roles in the society.

7.3. Origin and Development of the Satras: The neo-Vaisnavite movement initiated by the saint Sankardeva in the last decade of the fifteenth century is a turning point in the history of Assamese socio-cultural and religious history. In fact, the profound impact it made on the religion, literature, fine arts, social, musical and dramatic arenas, particularly in the Brahmaputra Valley, is unique and abiding. The institution of Satra which is still functioning as a guiding light for propagating and diffusing Vaisnavite ideal was brought in to being by the Vaisnavite saints heed by Mahapurush Sankardeva in the sixteenth century. It expanded and developed during the course of the next two centuries and a net work of satras practically covered the entire Brahmaputra Valley and extended up to modern Cooch Bihar which then formed integral part of Kamrupa. With the disintegration of the Koch kingdom, its western part comprising modern Cooch Bihar gradually lost contacts with the rest of Assam and subsequently became a part of Bengal. Sankardeva, Madhaadeva and Damodardeva formed a *Trimurty* of Assam Vaisnavism died in Cooch Bihar enjoying the liberal patronage of the then reigning Koch kings. The Vaisnavite movement of the Mahapurush Sankardeva impeccably assisted by his most favoured disciple brought an era of renaissance in the socio-cultural and religious-literary world of Assam. In fact, this neo-Vaisnavite movement which made a sweeping coverage of all aspects of Assamese culture and civilization can be said to be the very foundation of the Assamese identity of the current era.

7.4. Unique Contributions of the Satras to Art, Literature, Culture, Education etc:

During the last few centuries of its existence, the institution of the satras has contributed immensely to the Assamese literature and enriched the life of the Assamese nation morally, socially, educationally and culturally. Besides, its religious precepts and practice have been the most cherished tenets of about 80% of the Assamese people and have, in fact, built the solid and unified foundation of the broad Assamese identity. Assam is known to be a mini India with multiplicity of ethnic groups inhabiting the land from the days of yore. These clans and tribes with heterogeneous background of tradition, culture and beliefs have been united under one umbrella through the gift of Vaisnavite preachings. According to *Assam Buranji*, when Ram Sinha, the General of Aurangzeb was engaged in bloody warfare against Assam, his wife warned him, "Never think that this fame and piety will be enhanced by subduing the Eastern Kingdom (Assam) and bringing it under the domination of Mughals. We have...learnt that there is universal *nama-kirtana*" The social unity was solidified by the religious sanctity. The institution of Namghar is the nerve centre of Assamese nationality. It is in fact the discipline, order, morality and culture of the community, particularly, the village community.

7.4.1. The Institution of Satra voluntarily took upon itself the noble responsibility of enlightening the people through their own *tols on socio-cultural-religious matters* and Vaisnavite lores. In addition there to, other branches of knowledge that were taught includes *Vyakarana, Nyaya, and Kavyas*. The rare task of translating the Sanskrit scriptures was started by the Sankar Mahapurusha, while the Koch king Naranarayana of Cooch Behar and the Ahom kings of Rudra Simha and Siva Simha patronized the literary works of the Satras and made substantial contributions towards this.

7.4.2. Fraternity and Elevation of the Backward Classes:

The most important social contribution of the Satra institution is the missionary task of initiating persons belonging to various tribes and clans in to its fold and uplifts these colourful tribes and backward classes of people including the so-called untouchable class of people to a higher level of socio-cultural index. That is why Assam can boastfully say that the evil of untouchability had been almost non-existent in Assam's social order. The headship of the Satra has never been a monopoly of the Brahmins but this sanctimonious Seat of dignity and honour is equally held by the learned persons belonging to Kayastha and Kalita castes. Initiation in to this faith includes Koches, Kacharis, Chutiyas, 'Miris' (Mishings), and Nagas, Ahoms, Morans, Motaks, Chutiyas and the likes. While many of the Koch and Ahom Kings accepted this faith and made substantial grants in terms of land and finance, there were quite a number of Nocte sects of Nagas substantially from Tirap Division, who were initiated in to Vaisnavite faith and became devout *Bhakats* or disciples. The Satriya dance, a form of dance that was initiated by Srimanta Sankardeva and later developed within the satras, and thus called Sattriya Nritya, is one of the eight recognized classical dance forms of India. When Sankardev was at Pat Bausi, his nephew Ram Rai began living on the banks of the Sankosh river. He established the Satrasaal Satra here. King Nara Narayana (and later the king of Gauripur also) had donated huge plots of land to the Satra as many other Koch and Ahom kings donated huge plots of land to other Satras.

7.4.3. Socio-Cultural and Educational Contributions of the Satras: It would be seen that during the last five hundred years, Satras of Assam have made tremendous contributions to the socio-cultural and educational progress of Assam. This is why the Satras of Assam are the foundation of the Assamese culture and civilization, a symbol of unity and integrity amongst the various indigenous tribes and clans and the heart line of the Assamese identity. Without the Vaisnavite contributions, the history of Assam's all round progress would have been almost non-existent. The institution of the Satras has made tremendous contribution the State's education since the medieval time when education had yet to make existence through the Tolls, the pathsalas, the Vyakaran, Kavyas ets. The translation and adaptation of Bhagavat Purana and other Puranas, mostly by Guru Sankardeva himself bears eloquent testimony to its literary contribution par excellence. And who can deny the matchless contributions made in the fields of art and craftsmanship with world famous *Vrindavani Bastra* and the Mask industry purveying their excellence? But unfortunately, the Satras, the very centre of spiritual and cultural renaissance, have been facing degeneration and in quite a few cases, even extinction, afflicted, as they are, with the methodical and unrestrained invasion on their land and their property by the land hungry swarms of illegal Bangladeshis, as will be seen from the later paragraphs.

7.4.4. Management of the Satras: The Satradhikar is the head of the Satra and he runs the affairs of the Satra with the assistance of a number of functionaries attached to different departments of the satra. In some of the Satras, there is also one Deka Adhikari who acts under the guidance of the Satradhikar. While in case of some Satras, the venerable seat of the Satradhikar is hereditary, in some others, it is selected often due to for instance, vacuum in the line of succession. During the Ahom Rule, the satras could avail of these services of the Paik system who worked as menials for the satra. Finance has always been a problem for efficient running of the affairs of the Satra. Its income consists of two sources: (i) income from the land grants (ii) religious *tithes* contributed by the disciples. The second source yields income according to the number of disciples. The tithes payable to the Guru (Guru Dakshina) was considered a moral obligation of the disciple to be discharged by the latter. In addition to the above two regular sources, occasional presents or offerings from affluent devotees and patrons and

special subscription (*barangani*) meet the expenses. However, a good many number of Satras have experienced dwindling of the number of *Baktas* with consequent hardship of finance that as needed for efficient running of the Satra. And of course, the Government of Assam has been making special grants to individual Satra for specific purposes.

7.4.5. The Number of Satras: There are various opinions as to the number of Satras, big and small, existing in Assam. While according to the Report of the North East Policy Institute, there are 914 Satras in Assam, the Secretary General of the Assam Satra Maha Sabha, claims their number to be about 1200. . In any case, the number either way is huge by any standard and it only re-affirms the fact that the Satras of Assam till remain a crucial part of the Assamese society and the most cherished Institute singing the songs of the Assamese heart.

7.5. The Perennial Malady of Encroachment/ Poor Management: In order to bring home the heart-rending malady of encroachment on the Satra land and the crimes perpetrated on the Satra population by the illegal Bangladeshi land grabbers, we select below 18 worst-affected Satras to describe their untold miseries and the sad story of how this torch bearer institution of Assamese culture and civilization are facing threats to their existence. The massive land encroachment can be partly ascribed also to the poor management of the Satras. Depicted below is a succinct picture of the perennial malady of land encroachment of 18 Satras, many of which now exists only in name. These Satras have been selected for description of the malady in general because of the special features which they depict in some way or other:

7.5.1. Satrasaal Satra (Dhubri District):

When Srimanta Sankardeva was at Pat Bausi, his nephew Ram Rai started residing on the bank of Sankosh river. It was here that he had established the Satra King Nara Narayana donated huge area of niskar (*Lakheraj* / revenue-free) land to this satra. This satra is also known as the Ramrai kutir. According to its Satradhikar Sri Jitendra Rai Pradhani, the total area of land under the satra was 1429 Bighas out of which the State Government had requisitioned 1267 bighas in 1957. Of the remaining 162 bighas the entire land has fallen to the encroachment of the illegal Bangladeshis and the Satra, left with less than one bigha, is virtually on the path of extinction. There was another '*thaan*' known as *Burha Burhir Thaan* but presently, there is no trace of this *thaan* as well, the story does not end here. There were many small satras in Goalpara and Dhubri districts like Naokata satra, Bapupura satra, Damodar Satra Bishnupur Satra Rongapaani satra, Dharmapur Satra etc of which there is no trace –all of them have been grabbed by the successive waves of illegal Bangladeshis infiltrating in to Assam. These nerve centres of Assamese culture and civilization are being swallowed by the land grabbing sharks of Bangladesh and yet, the peoples' Government of Assam has abandoned its statutory duty to protect and save these priceless institutions.

7.5.2. Barpeta Satra:

Barpeta Satra is regarded as one of the holiest Satras of Assam because, the footprints of both the Mahapurushas – Srimanta Sankardeva and Madhavdeva were left on its sands which have given a rare

divinity. In 1906, Edward Gait wrote of the Satra thus, "Mahapurushas all over Assam regard Barpeta as their headquarters"

The Ahom King Swargadeo Shiv Singha had donated vast tracts of land to the Satra in addition to lands for twenty-two hundred Hatis. Mahapurush Srimanta Sankardev planted four posts at four corners of Barpeta to mark the boundaries of Barpeta Satra. It is generally believed that one who dies within the four pillars of the Satra, he attains *Baikuntha* (Heaven). It was gathered that all the lands outside the four pillars are now encroached by the Bangladeshi Muslims. During our visit to Barpeta Satra in May last (2017), it was gathered that more than 1000 bighas of Satra lands have fallen to the siege of the illegal Bangladeshi Muslims. The encroachment is going on freely everywhere and there is no authority to protect these sanctimonious Monasties of Assam.

7.5.3. Paatbausi Satra:

It was Srimanta Sankardeva who established this Satra by clearing the weeds and trees at Chunpora .Situated at 4 KM away from Barpeta Satra, Mahapurush Sankardeva lived 18 years six months in this beautiful Satra. The Saint did most of his literary and religious writings here in this Satra. Ahom Swargadeo Lakshminarayan Singha granted in 1690 sprawling stretch of land measuring 196 bighas in a single dag while, Swargadeo Gaurinath Singha granted 156 bighas debottar (nisfkhiraj/ half-revenue paying) land for setting up this Satra. Today more than 81 bighas of land have been grabbed by the illegal Bangladeshi Muslims.

7.5.4. Bohori Satra:

Established by Sri Sri Haridev, it is supposed to have derived its name Bohori from the words Bax-Hori that is the abode of Hori. Due to erosion, a large chunk of land has been transformed in to Char, which is entirely now occupied by the illegal Bangladeshi Muslims. Of the remaining Char land, about 190 Bighas are encroached by the Bangladeshi Muslims.

7.5.5. Jonia Satra:

This Satra was established by Purushottam Thakur Dev, the grandson of Mahapurush Srimanta Sankardeva. The name Jonia is believed to have been derived from the resonating sound of the Naam Ghar while conducting daily Bhakti Naam Prasanga. The Satra now remains in in a dilapidated condition. The Government had granted about 167 Bighas of land to this satra . However, out of this, about 160 Bighas,2 kathas and 6 lechas of land has been grabbed by the illegal Bangladeshis. And all that the Satra is left with is around 6 bighas of the land. Its possession includes the priceless treasures of Srimanta Sankar Mahapurush's *Khorom* (Paduka/wooden Slipper) and Padashila (stone footprints of the saint)

7.5.6. Pirala Satra ,Barpeta District:

(i) Haripur and Pirala Satra: Total Satra land under encroachment is 101 B 9 Lecha Dharmottar nisfkhiraj land The satra was established in 1498 AD. During the Burmese invasion (1824-26) the Satradhikar and some Bhaktas had fled to Bengal but returned to the satra and resumed religious activities after the British took over Assam in 1826. Subsequently due to certain natural calamities like the great earthquake of 1897, devastating flood etc, the Satra land became inhospitable and since approx. 1920, the devotees started shifting elsewhere as a result of which the occupancy of the satra land started thinning out. Taking advantage of this adverse situation brought by natural calamities, the

Muslims emigrating from East Bengal in large number started encroaching the satra land. This encroachment spree received a great boost during the Sadulla Ministry of the Muslim League during 1937- 46.

(ii) Subsequently, the Satra managed to get Rayati Khatian from DC Barpeta vide his order dated 9.1.2004 over more than 17 B. of Satra land. Under the relevant provisions of the ALRR, 1886, this transfer of religious land for non-religious purpose or to other religious persons/ institutions is illegal

(iii) The SDO Barpeta wrongly settled the land with some undeserving persons and an appeal having been preferred against this order before the Chairman, Revenue Board, Assam, it was ordered that the transfer of land/issue of khatians in the name of Muslim occupiers was not permissible under the law. However, the land is still under occupation of the illegal encroachers. This is one of the many such cases of illegal transfer of satra land to suspected Bangladeshi Muslim peasants. (Ref: proviso to sec 15A of the A.S.A. of land belonging to Religious and Charitable institution Act, 1959 read with Sec 67 of the Tenancy Act, 1971)

(iv) The Gauhati High Court has passed orders asking the Govt. to free the Satra lands from encroachments, protect the satras from encroachment and crimes perpetrated by the illegal Bangladeshis like theft, murder, rape etc. committed in several cases (for instance, the case of Adi Elengi and Baradi Elengi satras).

7.5.7. Kobaikata Sutra (Morigaon District):

Situated at a distance of 3 Km to the south West of the famous Batadrava Satra where Sankar Mahapurush spent his early life, the Kobaikata Satra today depicts a deplorable state of decadence due to two-pronged assaults of the flood and erosion on the one hand and more disastrously, the organized land grabbing spree launched by the illegal Bangladeshi Muslims. According to Sri Budhin Mahanta of Kobaikata area, " About 180 bighas of land in the area were encroached by Bangladeshi Muslims, who not only carried away poultry, cattle, pigs, grains stored in the barns but also afterwards set fire to those houses , barns etc. They even smashed and destroyed the Daan Paatra (the box where people donate money)" (Ref: North East Policy Institute). The invading Bangladeshi Muslims not only harassed the Assamese people by all kinds of depredations but also grabbed the Mahdwa Pond (Prasad washing pond) which they have converted in to a fishery under the Madrassa set up later on its bank. And today, there is nothing to be called Satra except the Kirtan Ghar which stands on just one Katha of land. And there is no trace of Government presence to protect the Satra and the Bhaktas who have also abandoned the area out of fear.

7.5.8. Ali Pukhuri (Patekibori) Satra of Morigaon Dist.):

It is believed by many enlightened circles that Patekibori is the old name of the present Ali Pukhuri where Mahapurush Srimanta Sankardev is believed to be born, even as there are still others who attribute his birth place to Bordowa. Anyway, since Alipukhuri is one of the two holy places associated with the birth of the great Baisnava Guru, it is dearer to the hearts of millions of Assamese people. But sadly enough, it has been allowed to be overrun by the illegal Bangladeshis who have taken over the satra land and the valuable treasures of the satra. The satra has now become a habitat of the Bangladeshi where the Muslim women hang their blue and green Sarees in front of the Monikut, instead of the divine place being elevated to an attractive centre adorned with resonating Naam Prasanga in its Kirtan Ghar, melodious echos of the cons Cells and attractive tourist guest house to welcome the

tourists from distant lands.. It is estimated that around 65 Bighas¹ Katha 12 lechas of Satra land have been encroached. There were five holy tanks of the Satra and two of them have been grabbed by the Bangladeshi Muslims.

7.5.9. Bordowa Satra:

Situated at a distance of just 15 Kms North West of Nogaon town, Bordowa or Batadrava *thaan* is also attributed to be the birthplace of Mahapurush Sankardeva and is considered the Second Baikuntha, a holiest of the holy places. Its munificent Kirtan Ghar is situated to the western part of the satra which was set up by the Mahapurusha himself, by laying the four pillars of the *Ekasarana Naamdharma*. It is from here that Mahapurush Sankardeva had attained his pursuits of uniting the divided sects of the society through his holy preachings as Mahatma Gandhi did through his vision and love for his people.

Most of the lands of the Satra were granted by the Ahom Kings for the purpose of religious preaching and acting as a unifying centre of excellence. However, due to poor attention of the Government of Assam and lack of proper management, the Satra has fallen victim to the surging assaults of the land grabbing Bangladeshi Muslims who have grabbed 221 Bighas of Norowa and shala guri satra land within the Batadrava *Thaan*. To its east, lie two holy streams- Tembuwoni and Saantijaan- where a Vaisnav school and the Sati Radhika Memorial stand. However, the holy atmosphere has been destroyed totally by the Bangladeshi encroachers who now rule the roost of the entire area. Besides, about 120 Bighas of land adjacent to the Akshai Ganga, the holy waterfall given to the Social Forestry Dept of the GOA is now encircled by the illegal Bangladeshis. If one of the holiest places of the State faces such deplorable assaults and there is none to protect the Satra and its property and its holiness, what rights of the indigenous people of Assam can be protected and how?

7.5.10. Bali Satra:

It is so named as the Damodar Ata had first set up the satra on the sandy bank. The Satra Campus has now six and half bighas of land and the satradhikar lives with his family. Attached to the Satra is a Village Grazing Ground (VGR) measuring about 511 Bighas 3 Kathas and 8 lechas of land .Of this, around 400 Bighas are under encroachment by the Immigrant Bangladeshi Muslims. According to a report of the North East Policy Institute (Page 23) "there have also been many instances of land belonging to Hindus being forcibly taken away or encroached and in a single night, brick walls being laid and Idgah and mosques being constructed in no time" by these Bangladeshi Muslim peasants. Though there were a few Assamese villages around the Satra, the Hindus are so few in numbers that they have no courage to resist the encroachment and commission of crimes by the illegal Bangladeshi Muslims. There have been several cases of Hindu girls being kidnapped by these illegal Bangladeshi encroachers. Thefts, dacoities, assaults and kidnapping of women are common crimes due to which the Satra family and the Assamese Hindu villages have lost their security to life, let alone protection of right to land. During the 1983 agitation against foreign nationals (read illegal Bangladeshis) 3000/4000 Bangladeshi Muslims planned to attack the *Satradhikar* and his family. Getting a sense of the imminent attack, the Satradhikar called a retired army jawan living nearby and when the attackers appeared, the Jawan fired just the two rounds he had, and somehow, the satra and the Assamese villages were saved.

7.5.11. Rampur Satra:

The Satra had originally 548 bighas of land in its name. Sadly, today, the satra exists only in name as the entire area is encroached by these *Pamua Muslims (Bangladeshi Farmer)*. To retrieve the land,

Advocate Kuntala Deka of the Gauhati High Court had filed a Writ Petition [Kuntala Deka -vs- State of Assam namely, Civil Rule No. 1649 of 1991 reported in 1997 (Vol-III GLT 3770)] in which the Gauhati High Court directed the GOA to take necessary action. But no action till now has been taken by the GOA. In fact when these grants of Government land cease to be used for the purpose for which the same was granted, it should have been acquired under the relevant Act for distribution of the same for landless people or such productive purposes as was considered expedient. The Committee wants to know the present position and the reasons as to why the orders of the Gauhati High Court have not been complied with.

7.5.12. Jorhat District: Satras of Majuli:

Majuli, the world's greatest river island and the proposed World heritage centre is the heart and soul not only of the Vaisnavite religion and culture, but also of converting it in to an excellent tourists' hub. Unique in its situation and surroundings and shy of development, Majuli, has miraculously withstood the fury of the mighty Brahmaputra in the form of ritualistic and devastating flood and erosions, practically inherent in its birth. However, it has been sustaining continuous loss of its geographical stretch with no effective measures to check its physical loss in size through anti-erosion and flood protection measures.

According to Dr. J.P. Ved, its geographical dimension till the later part of eighteenth century was 160x60 Sq miles According to the Gazettier of Bengal and North East India, the area of Majuli in 1901 was 485 sq miles. In 1916, it area was 770 Square Kilometer. In 1990, it stood reduced to 514 Square Km. However, the loss in area has continued and between 1916-90, its average annual loss of size has been 3.8 sq km. The present size has been truncated to 190 Sq kms..

Ailed by profound lack of transport and communication, roads and bridges and lack of development, this unique centre of attraction has been afflicted with an aggressive intrusion and conversion stealthily resorted to by some Christian missionaries. They have seduced the local simple and backward Mishing Community to be converted in to Christianity and in the process have reportedly constructed Churches and schools on the Satra land. It is not known whether the Satra authorities are facilitators. However, if the report of constructing Churches, schools or hospitals is true, **it has to be borne in mind that Satra land can be utilized only for the purpose for which it was granted and it cannot be used for any other purposes, not even for other religious purposes.** Such usurpation of lands wherever so misused, deserves to be acquired under the appropriate Act.

7.5.13. Gormur Satra:

While there are many Satras in the Satranagar of Majuli, Gormur Satra is one of the biggest of the four main Satras of Majuli. Established during the Ahom King Swargadeo Jayadhwaj Singha in 1656, it derives its name as it was set up near the Gorh (Fort) there. Later the Ahom Swargadeo Shive Singha (1714-1744AD) had granted 30,000 puras of tax-free land for the satra. Its one of the greatest, most learned and visionary scholar Satradhikar Dr Pitambar Deva Goswami lifted the status of the Satra to a very high echelon. He was the first to open the doors of the Satra for all sections of the bhaktas. A visionary that he was, it was he who reformed the satras and gave permission to the Bhaktas to end celibacy and it continues to be so. As a result, the satra has many Bhaktas of the nearby Mishing Community. However, due to various factors, the Missionaries mostly from Nagalands have made significant inroads and taken to converting many Bhaktas of this simple tribe in to Christianity. According to its Satradhikar, Sri Sri Ganesh Deva Sarma, "The presence of Christian missionaries in Majuli is a fairly recent occurrence. First, they would set up a school in the interior parts of the island. And then,

they would approach the families in the vicinity, especially people of the different tribal communities and urge them to enrol their children in the school, offering them free education and other such facilities like financial help. Those students who stay at the hostels are made to pray before photograph of Jesus Christ every morning and evening. Eventually, they would convert those children to Christianity". It is important to note that Sri Sri Dr. Pitambar Deva Goswami had donated huge portion of the Satra land to the poor, landless people of the area for welfare of their families.

7.5.14. Natun Kamalabari Satra:

Natun Kamalabari Satra is another famous Satra with Sri Sri Narayan Goswami, the Srimanta Sankardev Award Winner as its Satradhikar.. With not much of development and welfare works in evidence, the Satra is one of the highly respected one attracting hundreds of learned Bhaktas to the fold of the Satra. It is also true that the GOA has acquired lands for distribution among the poor people. But it is alleged that many of the occupants/ settlement holders of these lands belong to other religion which is in violation of the provisions of the law. There is a Satra Management Committee in each Satra with Deputy Commissioner as its presidents. Unfortunately, however, nothing worth mentioning in the nature of development/welfare of the people, nor in the nature of Satra development work has been done. Consequently, the activities of the satra -be they religious or art and dance, have been neglected. The conversion of the local tribal people has been going on and it seems that there is none to take note of these happening destroying the sanctity of the Vaisnavite religion and culture.

7.5.15. Adi Elengi Satra: Lakhimpur District:

This Satra is situated at Bihpuria in the district of Lakhimpur and is one of the worst affected Satras of Assam due to massive encroachment of Satra land and other crimes perpetrated by the Bangladeshi Muslim infiltrators.

To its north is situated another Satra named Bor Elengi Satra which is equally affected by massive encroachment of the Satra land. Originally, the Adi Elengi satra had a grant of 21,260 hectares of land out of which 1900 Bighas were acquired by the GOA in 1964 for allotting to five other Satras including Kamalabari Satras (Natun and Purohi etc). However, this entire land is now under encroachment by the Bangladeshi Muslims. In addition, the encroachers have spread beyond the satra land, as the new boundaries of the Satra remains as yet undetermined. Since this land settled with the Satras for pursuing the religious practices have ceased to be so utilized, it has to be resumed by the Government under the provisions of the relevant law, orders of the Revenue Board of Assam and of the Hon'ble Gauhati High Court, which, however, has not been done. Consequently, the huge mass of the Satra land still remains under encroachment of the illegal Bangladeshi Muslims. Again, near the Satra lies a Forest Reserve named Pabhoi Reserve covering an area of 24 kmx14 km= 336 Sq km. The entire forest reserve under their clutch has been destroyed and has been converted in to the land inhabited by illegal Bangladeshis.

Because of the predominant presence of the illegal Bangladeshis, the Satra as also the people in the neighbourhood have lost peace and security to the life and property. Crimes like murder, rape, theft, dacoity, rioting etc have become the order of the day and many Assamese villagers have reportedly left their homes due to such atrocities. **The Satradhikar was murdered by the encroachers. A 20 year old girl was raped and deserted in the field. Because of such atrocities, the local Assamese people have fled from their home such that out of 62 Assamese families only 26 are still there-scared of their life.** The Government of Assam (GOA) is known to have provided a security post

manned by five Home Guards making the security of the indigenous people a mockery. To a team of investigators of the North East Policy Institute, the Deka Satradhikar is reported to have said, “A few years ago, a Satradhikar was mercilessly murdered for no reason and his dead body thrown in the river by illegally settled Bangladeshi Muslims. **After a few days, a bhakat of the satra belonging to a particular tribal community was mercilessly killed by severing his head and chopping his lifeless body in to pieces. Although FIR had been registered, till date the police has been unsuccessful at nabbing the culprits.**”

7.5.16. Bor Elengi satra:

Situated to the north of Adi Elengi Satra, this Satra, spread over a stretch of 1000 Bighas is a bigger satra. However, as in the case of the Adi Elengi Satra, more than half of its land has been under the encroachment of the Bangladeshi Muslim encroachers. There are 75 families living in the satra now. About 26 years back from now, “ Bangladeshi Muslim dacoits entered the abode of the then Satradhikar Sri Sri Hema kanta Goswami and killed him mercilessly in front of his wife and children. The Satra land still remains in the illegal occupation of the Illegal Bangladeshis and the Bhaktas and the inhabitants around pass their sleepless nights out of fear of the atrocities perpetrated by the encroachers who outnumber the local people and excel in their ferocity.

7.5.17. Basudev Thaan:

It is a Thaan of Lord Bishnu situated at Dhakuakhana, adjacent to the Sampora River and at a distance of just 8 Km from the Lakhimpur town, “artistically and aesthetically sculpted on beautiful black stone, this statue is an instance of brilliant craftsmanship.... This statue was brought from Kundil (Sadiya) at the orders of Ahom Swargadeo Jayadhvaj Singha and established at Noruwa satra”. According to the Deka Satradhikar, Sri Dhiren Goswami, in 1401AD, King Lakshminarayan donated more than 200 bighas of land to this satra as Brahmottar land. **However, presently, Christian missionaries have set up a school and a Church and are resorting to conversion of the local people in to Christianity.** It is reported that seven of the 12 families so converted have returned to their original religious fold. Government presence is nowhere in sight.

7.5.18. Madhupur Satra, Coochbehar, West Bengal:

Madhupur Satra, set up by the Mahapurush Sankardev, is considered one of the holiest Satras. It is said that “for the Assamese race, Coochbehar is nothing less than holy Jerusalem.” Further, it is the only Satra which bears the unique memory of holiness because Mahapurush Sankardeva, Madhabdeva and Damodardeva had breathed their last and left for their heavenly abode from this satra. It is said that there were as many as 55 Satras set up in West Bengal. All these satras have become untraceable except 10 Satras which are still in existence, though in name and in pitiable, dilapidated conditions. Madhupur Satra with a large grant of land made to it also exists in name with its lands falling prey to the local encroachers and land mafias. Further, the Satradhikar has no fund or grant from the GOA to preserve its sanctity, much less for the perching of the Vaisnavite religious tenets and culture.

Part B

Temples of Assam

7.6. Temple lands and the Status of Temples of Assam: The temples of Assam have played a very crucial role in preaching, practising and re-surgency of the Hindu faith in Assam. The sanctimonious idols reflecting innumerable godheads and goddesses are regarded in great awe and reverence by the devotees irrespective of their positions in the socio-economic scale or caste and clans. They have also played a very important role in making economic impact on State's economy in that they have been supporting subsistence of thousands of families in the State, in addition to creating a congenial climate for peace and amity. During the Koch and Ahom Rules, the kings relied on the learned Brahmins sects for spread of knowledge, wisdom in various fields including astrology. There are several instances when the Ahom Kings, impressed by the depth of knowledge of the Brahmins grant huge plots of Lakheraj (Niskar) or Nisf Khiraj (half-revenue paying) land. It is these very grants of land and finance which had brought a new dawn of religious faith and uplift.

However, it is a cruel irony that these holy institutes of temples have over the last century have degenerated in to a decrepit stage to refurbish or retrieve which, it has become an urgent or imperative necessity of the time. The Committee for Protection of Land Rights of the Indigenous People of Assam feels seriously concerned that the socio-religious cum economic status of the temples and their custodians has degenerated so much that it has become a well-nigh impossible task to sustain the religious services or livelihood of the custodians of the temple. In fact, the religious sanctity and ambience of reverence that instinctively touches the hearts of the Bhaktas is missing.

7.6.1. What Ails the Temples and the Custodians? :

The most pernicious and deterrent factors that are contributing to such a sad state of affairs are multi-faceted. First thing that needs attention is that the landed properties granted by the Koch and Ahom kings for sustaining the religious activities have been under systematic encroachments by land grabbers, brokers and land mafias of various hue. Secondly, the Government of Assam has taken to acquisition of substantial chunks of temple lands from many temples under the Assam State Acquisition of Lands Belonging to Religious or Charitable Intuition of Public Nature Act, 1959 which were granted for carrying on the religious activities and also provided to some extent the most needed economic cushion to the temples. Section 7 of the Act says that every religious or charitable institution whose lands have been acquired under the provisions of the Act shall be paid compensation as per rules framed there under. But so far no compensation against such acquisition is known to have been paid to any of the temples. Instead, what has been paid is a paltry sum to mention which one will have to hang his or her head in shame and sorrow. Yes, the quantum of that paltry sum is what makes one incredible. **The All Assam Dewalaya Sangha has represented before the Committee that according to an amendment made to the Act in 1987, the minimum annuity fixed for a temple stands at Rs. 300/- (Rupees three hundred) per annum and in case of non-recurring grant-in-aid, a lump sum of Rs.500/- (Rupees five hundred) is paid in every two years ! If its arithmetic is worked out, the result of the sum per day would come to approx. 0.69 paise, a sum which a beggar would refuse**

to accept. Therefore, the Deputationists had represented before the Committee that with that humiliating sum of so-called annuity, the temple authorities are unable even to buy the oil needed for lighting the *Chaaki*. (iii) the most serious danger to the safety, security and identity of the temples and its proper upkeep has been the indiscriminate encroachment of the temple lands by land grabbers and land mafias who are wielding colossal political and money power to frighten the simple Pujaris or the authorities and also are reported to have close access to political lords. In such a dangerous situation, the temple authorities have to invoke mercy of God to protect them and their properties and for carrying on the sacred task of worshipping the deity as also for up keeping the temple and the complex. The last but not the least that is pinching the hearts of the temple devotees is the planned theft of temple assets including the idols of the godheads and the priceless artefacts. There have been cases when not only the idols, gold ornaments etc have been removed by the thieves and criminals but also have defecated inside the temple /Monikut. This has happened all over Assam because the temple authorities have no means to provide security guards to ensure security and safety of the temple complex.

Having said what the Government of Assam has not done or is required to do, it would be less than fair if also the failure of the custodians of the temple were not mentioned. It may be that they are not in a position to provide security guards or take up improvement works on their own. It should also not be forgotten that there are certain things which can and must be done by these custodians of the temples. The natural question that arises is: Do they really not in a position to buy even an iron Almirah to ensure the safety of their daily collections, ornaments and other valuable offerings? How many times have they approached the government of Assam to represent their grievances and get their dues from the Government? Is the daily collection of the temple properly accounted for and audited or even, spent?

7.6.2. Status of temples in India: The emergence of temples in India began almost with the beginning of the Hindu civilisation. The Hindus have perceived temples as a *Sanctum Sanctorum* where one can be in direct communication with and access to the gods and goddesses. Worship in the temples has been, therefore, conceived as a purifier of minds, broadening of human hearts and a sacred and solemn corner to display love and kindness to fellow human beings and, in fact, to everything that has life. According to Guru Sankardeva's philosophy, '*Jata jeeva, tota Siva,*' that is, "every living being is as good as or equal to Lord Siva." According to one account, there are 1,08,000 In India, of which Assam shares 495 The first reference to Temple comes from Sangam Literature of the first and second centuries AD. In almost all cases, it is the kings of the contemporary period who patronised construction of temples with liberal grants of land and fund. Land Grants to Brahmins and for Temples (Devottar/Dharmottar and Brahmottar) became more widespread from 10th century onwards, though some land grants were made earlier also.

7.6.3. Temple as a Socio-Religious and Economic Centre:

Temples in India have always served as conjunction where religious teachings and preaching take place and from which *tridhara* of socio-economic fruits ensue. In medieval Deccan, the temple served as a multifarious centre. It was not only a place of worship of the deity but also a centre for social, economic, religious and cultural renaissance of the millions of devotees as well as the common people. It was in fact a nucleus of the village life. There was hardly any village without a temple. Behind the setting up of temples in every village was the philosophy according to which temples were considered as one of the seven acts of righteousness known as **Saptasanta**. The other six being having a son, adopting a son, producing literary works, gifting an *agrahara*, a garden and a tank. The epigraphical evidences of this period show that these temples were endowed with lands and some of the costliest gifts in both cash

and kind. The kings encouraged temple-building activities giving all possible help to their feudatories. Many a time, the regional kingdoms patronized the religion and deities of the tribal people, who surrounded their kingdoms and through the construction of imperial temples to the tribal deities, the kings achieved political integration.

7.6.4. The Status of the Temples of Assam: As stated above, Assam has 495 temples both big and small. The principal amongst them can be named as the Kamakhsya temple, Navagraha Temple, Umananda Temple, Ugratara temple, Sukreswar Devalaya, the Basistha Temple, DouL Gobinda, Dirgheswari temple etc in and around Guwahati, the Siva DouL in Sibsagar town etc. Almost all the temples were the gifts of the kings of the Ahom and the Koch dyanasties. They granted huge tracts of land and finance for maintenance of the temples and the devotees. Unfortunately, due to lack of proper management and direction and a policy of aloofness adopted by and large by the present day Governments, most of the temples have been passing through bad phases which have made it a stupendous task even for their survival. In many cases, the attraction of the devotees has waned, their numbers and income dwindled and their maintenance is so degraded as to leave them in dilapidated conditions. Legends have it that behind the creation of each of these temples there is a hidden significance, study of which unravels multifarious wisdom including mythological, spiritual, religious, socio-cultural, historical and archaeological treasures. Most of the temples are starved of funds. Their principal source of income is land which is mostly under encroachment by powerful land grabbers and encroachers. And, with the government showing their back to these religious institutions, these abodes of deity have degraded in to forlorn areas.

7.6.5. Extent of Encroachment of the temple lands: The encroachment of temple land has become a nefarious trade and a routine affair. These land grabbers, in many cases, are known to have close links with the power-wielding section of the society, often with the blessings of the political bosses. The brokers and *dalals* of land are seen hovering around the neighbourhood of temples just as flies hover over the fruit dishes. In fact, an army of powerful nexus has made the task of grabbing, encroaching and selling of temple land a smooth operation. The poor, helpless custodians have no way to protect the temple land from the lusty assaults of these anti-social elements. They are even unable to protect the ornamented idols, cash collected and ornaments which they receive as daily offerings from the Bhaktas. So, thieves and dacoits have their easy way and a kind of field days to steal cash, rob ornaments and even the priceless idols. In all such case, the concerned police authority and the Government are simply helpless spectators. The role of the custodians of these religious institutes is dismal and the extent of land encroachment is so extensive that one would rather shudder to think that thefts and dacoities have contributed to chaos and anarchy in the religious environment.

7.6.6. The All Assam Devalaya Sangha, in course of their deputation had furnished a memorandum with a list showing thousands of acres of land under encroachment of the land owned by more than 100 temples of Assam (*the number of temples, the original grant of land allotted and the remaining portion of the land with the temples are shown in Annexure-VIII*). It is also important to note that apart from encroachment, the state government also has acquired some lands under The Assam State Acquisition of Lands Belonging to Religious or Charitable Institution of Public Nature Act, 1959. Though such land can be used only for purpose specified under the proviso to section 15 of the Act, it is not known as to how the land acquired from the temples has been used by the government. However, it is reported that some of these acquired land are under encroachment/ occupation of the illegal Bangladeshis which warrants an enquiry and further follow-up action to be taken by the GOA. And, as mentioned in an

above paragraph, the annuity given to the affected temple in lieu of the land acquired is literally and ridiculously a pittance, telling a sad tell of humiliation to both the custodians of the temple as well as the devotees.

7.7. Overall observations on Satras and Temples:

(i) Most of the Satras and temples have *fallen* prey to the indiscriminate, free encroachment of the Satra/temple lands or other endowment grants of land made by the then Ahom and the Koch kings. While most of the Satra lands have been gulped in a pre-planned and well-orchestrated manner of encroachment by the swarms of land hungry illegal Bangladeshis, with preponderance of their assaults in the lower Assam Districts, the Christian Missionaries have made their silent inroads mostly in to the Upper Assam districts grabbing the Satra lands. And while government inaction is routine, it is not known what action had been taken, if any, by the custodians of the institutions in preventing such encroachment or protecting this priceless land. The minimum that is expected of them is to inform the concerned Circle Officers of the Government of Assam for initiating the eviction process. It is rather a mystery that the Government of Assam has almost invariably maintained its escapist stance and spectator's role in regard to both protection of their lands and proper management by the custodians of these religious institutions

(ii) As in the case of the temples, 'excess' Lands of some Satras have been taken over by the GOA through acquisition under the provisions of the Assam State Acquisition of Lands Belonging to Religious or Charitable Institution of Public Nature Act, 1959. However, these lands have also been mostly consumed by the land hungry Bangladesh Muslim encroachers. **It is a mystery that after acquisition of these lands from the religious institutions, the lands were left to be encroached by the illegal Bangladeshis, as if the acquisition was made for their encroachment! The encroachment or settlement of such land with the illegal Bangladeshis being contrary to the law, the land lost to the encroachers needs to be resumed.** Unfortunately, the Committee is sad to say that the Government of Assam does not even have a list of landless persons to whom the acquired land, if any, can be, or have been, settled with. But if media and other reports can be relied upon, the suggestion is that in the absence of any Government plan or efforts to utilize these lands appropriately, the illegal Bangladeshis have grabbed these lands as well. And in one case (Satra) as mentioned above, even the SDO (Civil) had allotted such lands to an illegal Muslim Bangladeshis in violation of the provisions made under the Proviso to Section 15 of the afore said Act of 1959.

(iii) The moot point is that unless appropriate security is provided in strategic centres for protection of the Satras and temples and their landed property and other religious treasures as also the life of the people living in the Satras and the temples, it is a matter of time that a stained page of history will greet the posterity when the Institution of the Satras and the temples will go extinct and leave for them a legend.

(iv) The Management of the Satras in general has dismally deteriorated over the last few decades due to various factors as indicated in the above paragraphs. The protection of the Satra land is the first responsibility of the custodians whose commitment and competence in general unfortunately leaves much to be desired. The Committee recommends that the Government of Assam should shun its callous, casual and escapist mindset and adopt statutory reform measures by setting up a high Level Statutory management Committee so as to re-orient and streamline the management of the affairs of

the Satras and the temples. And it is important to realize that with proper steps for their appropriate development and management taken, the Satras and the temples can be transformed into Centres of Excellence-and the most cherished tourist destinations of the world tourist' a boon that is bound to boosting up tourism and economic growth

7.7.1. Survey of Encroached Lands to be made: While no methodical Land Survey has been conducted to determine the exact extent of encroachment on the Satra and temple lands, various estimates have been made by different authorities including the Satra Mahasabha of the lands under their respective ownerships. According to a rough estimate, more than 8000 Bighas of lands belonging to different Satras of Assam (besides that of the Madhupur and other Satras in West Bengal) are under encroachment of the Bangladeshi Muslim encroachers. The temple lands under encroachment are equally huge but the Dewalay authorities had failed to furnish any definite figures of the land under encroachments. In order to salvage the lands from the encroachment and protect the life of the Satra people, the Management Board of the Satra needs to be upgraded, reoriented and re-strengthened. The table below shows that the total land of just 26 Satras under encroachment by the illegal Bangladeshis is estimated by the North-East Policy Institute at 5548 bighas:

Table-7.1

Satra land Under Encroachment

Sl.No.	Satra	District	Land (in bighas)
1.	Ramrai Kuthi	Dhubri	11
2.	Simolabari	Dhubri	195
3.	Barpeta	Barpeta	460
4.	Kaaljar	Barpeta	136
5.	Haripur	Barpeta	48
6.	Paatbausi	Barpeta	81
7.	Bhabanipur	Barpeta	117
8.	Bohori	Barpeta	190
9.	Jonia	Barpeta	160
10.	Dhupordhol	Barpeta	182
11.	Kobaikota	Morigaon	46
12.	Patekibori(Alipukhuri)	Morigaon	77
13.	Bordowa	Nagaon	283
14.	Balisatra	Nagaon	462
15.	Rampur	Nagaon	584
16.	Salaguri Satra(Dhing)	Nagaon	4
17.	Adi Elengi	Lakhimpur	1900
18.	Bor Elengi	Lakhimpur	105
19.	Khatpur(Naoboisa)	Lakhimpur	48
20.	Sipoha	Lakhimpur	34
21.	Nikamul	Sonitpur	10
22.	Bapupura	Goalpara	110
23.	Damodar	Goalpara	46
24.	Bishnupur	Goalpara	161
25.	Somoria	Kamrup	50

26.	Malancha	Kamrup	48
Total land			5548

Source: Report of the North-East Policy Institute (Page No. 33)

7.8. Identifying the Ailments of the Satras and Temples of Assam: In order to retrieve the lost glory, vitality and vibrancy of the Satras and the Temples of Assam, the Government should come alive to re-orient and upgrade the management of the Satras and the temples of the State. The core problems which are eating in to the vitals of the health of these religious and charitable Institutions are unrestrained encroachments on the lands of these Institutions, dearth of finance required to maintain the sanctum Sanctorum in good condition and to assure the devotees a frugal livelihood. It is also of utmost importance that the vast tracts of lands under these religious and charitable institutions are left exposed to high risks of encroachments due to mismanagement as also absence of any care and protective measures. The root causes of contributing to such a dishevelled and dismal condition are mismanagement by the custodians of these religious institutions and the total apathy of the Government of Assam in all these areas. The Committee is at pains to note that while the Government of Assam had enacted The Assam State Acquisition of Lands belonging to Religious or Charitable Institution of Public Nature Act, 1959, it had forgot to look after its health and environment. The GOA had also neglected to put any thoughts that the vast areas of land under these religious institutions have been left unproductive and exposed to encroachment by the illegal Bangladeshis.

7.8.1. Recommendations: The Committee recommends that (i) the Government of Assam enacts an exclusive law for smooth management, control and assistance of these religious institutions and (ii) contributes to its smooth management by reconstituting Statutory Management Board of each Institute armed with adequate power to (a) retrieve the encroached land, (b) execute a modern developmental scheme in each such institute (c) add new sources of income, and (d) clear all lands under encroachment and create a land bank out of the cleared lands for distribution amongst the actual landless indigenous people of Assam and to transform these cultivable lands in to high yielding agricultural hubs. These religious institutions should be so developed as to be the Centres of Excellence and tourists' destinations/ the centres of research study and beautification and (e) re-orient itself (the government of Assam) to be the leader of all round development of these religious institutes which are the store houses of Assamese people's history culture, glory and socio-religious uplift .

Part-C

Wakf Properties

7.9. Concept of Wakf: The concept of "WAKF" reflects a sacrosanct feeling of heart which is rooted in and stems from benevolent or altruistic desire to alleviate the miseries and sufferings of the less fortunate section of the society. Thus, the concept of the word 'wakf' imports a pious, charitable and religious connotation charged, as it is, with an inherent mission to attain social welfare and do good to the society through alleviation of miseries and sufferings of the less fortunate human beings .

7.9.1. Literally, 'wakf' means detention of a property of which the produce and the income accrued from the wakf properties are made available for religious and charitable purposes. One of its basic characteristic features is that once a property is so placed in detention, it remains in detention in

perpetuity and thereafter, that property becomes non-transferable or non-alienable. Again, the Wakf is binding on its creator and is enforceable by law. It should also be clearly understood that while a benevolent Muslim, moved by his sentiment of kindness or softness of heart creates a wakf, he thereby donates his property in detention in the name of Allah (God) for charitable purposes that is, for the benefit and uplift of the society. Thereupon, the ownership of the property dedicated to the Wakf, stands alienated from the creator of the wakf and detained perpetually in the name God. It is also to be understood clearly that the Wakf properties accumulated under the Wakf Boards, both in India and the State of Assam, are of massive dimension and its control and management are vested in the Wakf Board assuming the status of the sole custodian in relation to each of them.

7.9.2. Conditions to be fulfilled for creating a Valid Wakf: The creation of a Wakf is subject to fulfilment of the following conditions.

- a. The dedication of the wakf property should be permanent and given for any purpose sanctioned by the Muslim Law, that is, for religious, pious and charitable purposes only.
- b. The person who creates the wakf must be competent to do so, i.e., he must be of sound mind and must be a major; and
- c. The creator of Wakf must have a right to the property solely owned by him, which is dedicated to the Wakf.

There are two types of Wakfs, namely, Public Wakf and Private Wakf.

7.9.3. The Legal Control of the Wakf in Historical perspective: The properties of the Wakf, massive by all accounts, have a profound potential for contributing to the welfare and uplift of the socio-economically disadvantaged section of the Muslim society. The properties accumulated over the ages are so massive that if these are properly utilised for alleviating the sufferings of the people, it can work wonders. This was in fact the driving force which impelled the Government of India to turn its attention to scheme out an enactment with a view to regulate and safeguard the Wakf properties all over the country. In this view, the Government of India had decided as far back as in 1954 to bring the concept of the Wakf and its properties, both movable and immovable under the statutory control so that it could be smoothly administered and taken care of. With a view to achieve that object, the Central Government enacted the Wakf Act, 1954. The said Act created a Wakf Board to have superintendence and control over the management of individual Wakfs. However, this Act had to be amended three times, in 1959, in 1964 and in 1969, that is, within a period of 15 years. Thereafter comprehensive amendments to the said Wakf Act were made by the Wakf (Amendment) Act, 1984. This amendment had to be made in order to accommodate the recommendation of the Wakf Inquiry Committee set up in 1970 to inquire into the administration of the Wakfs at all levels and in response to a demand made in Parliament by its Members during a discussion on the Wakf Amendment Bill, 1969. But unfortunately, 1984 Act did not yield desired results because of the strong opposition to its various provisions from the Muslim community. Therefore, the Government of India in its wisdom had thought it fit to repeal the aforesaid two Acts and to bring in the Wakf Act, 1995, which presently controls and regulates the management of the Wakf properties and the Wakf Boards and also acts as the protecting tool of the Wakf properties. It may be pertinent to mention that both the Wakf Act, 1954 and the Wakf Act, 1984 were not applicable to the North-Eastern States of India. So, it was only the Wakf Act, 1995 which has been extended to the whole of India except the State of Jammu and Kashmir.

7.9.4. Legal Provisions for Administration and Maintenance of the Institution of the Wakf : A close and careful look in to the Wakf Act, 1995 (hereinafter referred to as "Act, 1995") reveals that the provisions made in the Act are rather scientific, systematic and exhaustive and provides an effective tool in the hands of the Wakf Boards to streamline the administration, regulation and control of the institution of Wakf as also to so elevate the dimension and standard of management of the welfare programmes as to sustain and enhance its sanctity and purity of the Wakfs. The Act, 1995 consists of 113 sections.

. This Act casts certain duties and responsibilities upon the State Government which indicates that the State Government must pay proper attention and look after the smooth administration of the Wakf. The State Government has to act in co-ordination with the Government of India as the law has assigned certain specific responsibilities upon the Central Government. **The State Government is duty-bound to appoint a Survey Commissioner of Wakfs and as many Additional or Assistant Survey Commissioners of Wakfs as maybe required for survey of Wakfs existing in the State at the date of the commencement of this Act.** All the Additional and Assistant Survey Commissioner of Wakfs shall perform under the general supervision and control of the Survey Commissioner of Wakfs. The Survey Commissioner is required to make certain statutory enquiry and submit his report to the State Government in respect of Wakfs existing on the date of the commencement of the Act, 1995 in the State. The Survey Commissioner is required to take the following particulars into consideration, while making such enquiry:

- i. *The number of Wakfs in the State showing the Shia Wakfs and Sunni Wakfs separately.*
- ii. *Nature and object of each Wakf*
- iii. *The gross income of the property comprising each Wakf.*
- iv. *The amount of Land Revenue, Cesses, Rates and Taxes payable in respect of each Wakf.*
- v. *The expenses incurred in the realisation of the income and the pay or other remunerations of the Mutawalli of each Wakf and*
- vi. *Such other particulars relating to Wakf, as maybe prescribed.*

The Survey Commissioner is required to exercise his powers as are vested in a Civil Court under the Code of Civil Procedure, 1908. A close examination of this provision clearly indicates that it is a Quasi-Judicial function of the Survey Commissioner. At the end of the enquiry, the Survey Commissioner has to submit a report to the State Government. If the State Government feels that further survey of the Wakf is required, then it can direct the Survey Commissioner to make a second or subsequent survey of Wakf properties in the State. However, the second survey can only be done after the expiry of a period of 20 years from the date of submission of the report of the first enquiry (vide Section 4 of the Act, 1995).

On receipt of such Report, the State Government is required to forward a copy of the same to the Board of Wakfs constituted under Section 14 of the Act, 1995. The Board is required to examine the Report and publish a list of Sunni Wakfs or Shia Wakfs in the State in the Official Gazette (vide Section 5). The aforesaid scheme has been made to keep the Wakf properties within the knowledge of the State Government with a view to enable the State Government to take appropriate steps to administer the

Wakf properties of the State effectively and efficiently. Thus the Act thrusts some responsibilities on the State Government to ensure that the wakfs are run effectively and efficiently. This Committee, however, has no knowledge whether the state Government has played its assigned role. The Committee recommends that the GOA rise to occasion of improving the quality and standard of the management of the Wakf Boards and comply with the mandatory provisions of the Act, 1995.

In fact, efficient management and administration of the institution of Wakfs largely depends on the efficient functioning of the following three offices:

- a. *The Board of Wakfs*
- b. *Chief Executive Officer and*
- c. *Mutawallis*

The Mutawalli is the Manager of the Wakf property, who is responsible to the Board under which it functions.

The State Government is under legal obligation to constitute the Board of Wakfs in the State (vide Section 14). The Board consists of the following persons:

- a. *A Chairperson*
- b. *One and not more than two members, as the State Government may think fit to be selected from each of the Electoral Colleges consisting of (i) Muslim Members of Parliament from the State, (ii) Muslim Members of the State Legislatures, (iii) Muslim Members of the Bar Council of the State, (iv) Mutawallis of the Wakfs having an annual income of Rs. 1 Lac and above*
- c. *One and not more than two members to be nominated by the State Government representing eminent Muslim organisations*
- d. *One and not more than two members to be nominated by the State Government, each from recognised scholars in Islamic theology*
- e. *An Officer of the State Government not below the rank of Deputy Secretary.*

It appears that the Wakf Board is the life-blood of the institution of Wakf. The Board has an onerous statutory responsibility to discharge. The health and wealth of the institution of Wakf largely depends on the administrative efficiency of the Wakf Board. Therefore, the State Government has to be careful to select the Chairperson and members of the Board. The Chief Executive Officer has also a very important role to play in administering and maintaining the institution of the Wakf.

The Chief Executive Officer of the Board must be a Muslim individual. He should be appointed by the State Government in consultation with the Board, by a notification in the Official Gazette. The Chief Executive Officer shall be ex-officio Secretary of the Board. He has to perform his statutory duties under the administrative control of the Wakf Board (vide Section 23). The powers and duties of the Chief Executive Officer are statutorily prescribed in Section 25 of the Act, 1995.

As required by Section 36 of the Act, 1995, every Wakf should be registered by the Mutawalli at the Office of the Wakf Board. On registering a Wakf, the Board shall enter it in the Register of Wakfs to be maintained by Wakf Board (vide Section 37).

7.10. Finance of the Board And Maintenance of Accounts of Wakfs: The maintenance of accounts of Wakfs and finance of the Board are specifically provided in the Act, 1995. Section 44 of the Act, 1995 mandates that Mutawalli of a Wakf shall prepare a budget in respect of the next Financial Year showing the estimated receipts and expenditure during the financial year. Such budget must be submitted by the Mutawalli at least 90 (Ninety) days before the beginning of the Financial Year to the Board. The Board may give direction for making alteration, omission in the budget as may be necessary, consistent with the objects of the Wakf and provisions of this Act. The Mutawallis are required to keep regular accounts of the Wakfs. Every Mutawalli of a Wakf has to prepare a full and true statement of accounts to the Board (vide Section 46). The accounts of the Wakfs to be submitted to the Board shall be audited and examined by the Auditors appointed by the Board. The State Government is also empowered to cause the account of any Wakf to be audited by the State Examiner of Local Funds or by any other officers designated for the purpose by the State Government. The Auditor shall submit his report to the Wakf Board (vide Section 47). Thereafter, the Wakf Board will examine the Auditor's report and take necessary action in terms of the said report. The Mutawallis who are the managers of the Wakfs are required to perform statutory duties as prescribed in Section 50 of the Act, 1995.

It may be pointed out that no immovable Wakf property is allowed to be alienated by way of sale, exchange or mortgage without the prior sanction of the Wakf Board. If such sale, exchange or mortgage of said Wakf property is effected, then it will be void (vide Section 51).

7.11. A General Review of the Management of the Wakf Properties in Assam: During its interaction with various individuals and organisation in pursuance of the wide publicity given through print and electronic media for apprising the committee of the grievances which any individuals and organizations could have, the Committee had received just one brief Memorandum which practically elicited no material facts as to the administration of the affairs of the Wakfs in Assam. However, at its own initiative, it could gather certain important facts that provides at least some guidelines as to management of the state of affairs of the Wakfs: (i) One of the major problems that the Wakf Board of Assam is faced with is large scale encroachment of the Wakf properties, particularly in a metro city like Guwahati, and the non-payment of the proceeds of such property regularly in the form of rent etc. (ii) Misuse or as in certain cases, even misappropriation of Wakf funds reflect another important area of problems (iii) Difficulties of evicting the encroachers or defaulters in payment of rents or other dues payable legally or as per agreement (iv) Absence of a full time Chief Executive officer to execute the welfare schemes of the Board. (v) Existence of a good number of unregistered Wakf in the State (vi) non-updating of records reflecting the correct position of the assets and liabilities of the Wakf Board (vii) dormant roles played by the state government in discharging its obligations as per the provisions of the Wakf act, 1995 –a situation which has proved a major impediment to attaining the goal and objective of the wakf as per wishes of the Wakf (viii) Last but not the least, the non-enforcement/ non-implementation of the Wakf Act, due to default at the State Government level to give a final shape has created very many basic problems in the administration of the institution of Wakf.

7.12. Suggestions and Recommendations of The Committee: Having dealt with the salient features of the Act, 1995 exhaustively hereinabove, the Committee considers that the Government of Assam should take a holistic view of the entire gamut of the problems in smooth running of the Wakf Boards of Assam and adopt the following necessary steps The committee would like to record its feeling that no

one from the Wakf Board could feed the Committee with appropriate data and materials. Therefore the suggestions may not be construed as exhaustive. The suggestions are as enumerated below:

- a. The Government of Assam should survey the Wakf and Wakf properties through the Survey Commissioner of Wakfs or Additional / Assistant Survey Commissioner of Wakfs. If exercise of such survey is already completed then the second survey maybe made in respect of the Wakfs and Wakf properties created after the first such survey.
- b. That after such survey, a full and complete up-to-date list of number of Wakfs in the State of Assam showing the Shia Wakfs and Sunni Wakfs separately should be made and published.
- c. The Government of Assam is under legal obligation to constitute a competent and efficient Board of Wakfs. While constituting the Board of Wakfs, proper care and caution should be observed so that Members of the Board, including the Chairperson should be indigenious Muslim persons. The Government of Assam should not be influenced by any political considerations, whatsoever, while constituting the Wakf Board.
- d. Though the Chief Executive Officer of the Wakf Board is to be appointed by the State Government in consultation with the Wakf Board, it has to keep in mind the various functions to be statutorily performed by the Chief Executive Officer. Accordingly, the Government of Assam should take special care in appointing a competent and efficient Chief Executive Officer who is directly accountable to the Wakf Board.
- e. The budget of the institution of the Wakf should be scrupulously made for every financial year so that Wakf Fund can be properly utilised for the benefit of the beneficiaries of the Wakfs and Wakf properties as required under the law. The Government should pay proper attention to execute the objective of the budget and to control the Wakf Fund judiciously. There has been report in Guwahati itself that there has been alienation of very many Wakf properties existing for years together without the sanction of the Wakf Board..
- f. The Government of Assam should also seriously consider making an enquiry into the mis-management, irregularities, illegalities and mal-administration of the Wakfs and Wakf properties by a person having judicial experience and background.
- g. The Government of Assam also, in consultation with the Wakf Board, should take over the Wakf properties illegally alienated, transferred and exchanged and hand over the same to the Wakf Board for proper administration and maintenance.
- h. The Government of Assam should come down heavily on the persons who are effecting sale, exchange and mortgage or otherwise effecting transfer of the Wakf property which derailed the very objective of creating a Wakf. Therefore, the Government should prevail upon the Wakf Board to ensure that the Wakf Board takes effective steps to prevent transfer of such Wakf properties.
- i. This Committee is also informed that many charitable hospitals, educational institutions, universities are being run by the Wakf in states like Uttar Pradesh, Bihar, Haryana, Punjab etc. These are the beneficial steps leading to the fulfilment of the objectives of the Wakfs. Therefore, the Government

of Assam should also make schemes in consultation with the Wakf Boards to build up such institutions in the State of Assam.

- j. It has also come to the knowledge of the Committee that a huge encroachment of Wakf properties all over the State of Assam has taken place from a very long time. Neither the Government of Assam nor the Wakf Board has taken any effective steps to evict these encroachers from the encroached Wakf properties. Serious efforts to evict the encroachments are necessary to be taken. It appears that many people interested in the Wakf and Wakf properties are approaching the Civil Court for resolution of their disputes in respect of Wakfs or Wakf properties, which is clearly illegal in view of the fact that the jurisdiction of the Civil Court is clearly barred to resolve any dispute in respect of Wakfs and Wakf properties. These disputes are to be resolved by a Tribunal constituted by the Government.
 - k. The Government of Assam should constitute adequate numbers of Tribunals in the State of Assam so that people can approach the Tribunals to resolve any dispute in respect of Wakfs and Wakf properties.
 - l. The Government of Assam should make an endeavour to get the Wakf Fund audited and/ or examined by the State Examiner of Local Funds or by any other Officers designated for the purpose by the State Government.
 - m. The Committee deems it to be fit and proper to suggest to the Government of Assam to make necessary provisions for maintenance and regulation of Wakf Land belonging to the institution of Wakf in the Assam Land and Revenue Regulations, 1886.
 - n. While nominating /appointing an M.P from the electoral college, due care and consideration should be given to select, as far as feasible, to appoint/ nominate an M.P who is well acquainted with the socio-cultural-economic background and the sentiments of the indigenous people of Assam .
 - o. The Accounts of each Wakf Board must be audited annually not only by the Examiner of the Local Accounts but also by the statutory auditors to ensure proper utilisation of a single rupee spent from the Budget
 - p. The release of future grants should be subject to submission of the Utilisation certificate to be furnished by the Wakf Board which is a Statutory requirement
 - q. And finally, the Wakf Board must be required to discharge its corporate social responsibilities in spending at least 25 percent of the amount earmarked in its annual budget for taking up charitable and welfare works like opening of hospitals, schools and other higher educational institutes, sports authorities and cultural institutes from which the common people can derive benefits and fulfil the pious and sacrosanct objective of doing philanthropic/ charitable works.
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Chapter-8

“Nothing is more destructive of respect for the government and the law of the land than passing laws which cannot be enforced”

-Albert Einstein

Assam – An Encroachers’ Heaven.

8.1. The Invisible, Perennial Stream: Few realize that Assam, connected as it is with the rest of India through a ‘Chicken Neck’, has slowly metamorphosed in to a heaven of encroachers. Swarming, as they do, from all directions beyond the boundaries of the State and the country, they have a heaven reserved for them that is safe, secured and luring. In fact, it is a home sweeter than home which lures all to rush, encroach and get settled unrestrained- anywhere in the State, on any class of land- be it reserved forest land or protected Belt/Block land or VGR/ PGR land or any category of land, at their sweet will, free of restraint or obstructions from any corner, as if the State belongs to none but the infiltrating encroachers.

For, there is none to question their sudden godly emergence; there is none to inquire in to their identity- their State of origin, their language, their ancestry. There is also none to ascertain as to why and how they cross the barriers of the international borders seemingly guarded by armed security forces, or how they escape from the impenetrable watch of the security forces guarding the borders; nor is any one inquisitive of ascertaining as to how they identify or who guides them to the land of a particular char village to be grabbed by them, nor does anyone endeavour to know the art and chemistry of the nexus which works for them and sends them here or who acts as their Godfather(s) to bring and settle them on the land of their choice. Therefore, the immigration and infiltration by the Bangladeshis or the Nepalis go on and on forever. The specie called indigenous persons made up of a colourful assortment of pristine clans and tribes gets so scared of these ferocious-looking, aggressive land grabbers that they, instead of gathering courage to drive them out, soon enter in to seclusion just as the rats scared of the preying cat rush to their burrow for self-protection. Their fear stems from the fact that unlike the well-organized armed land grabbers, the indigenous people are unorganized and unarmed and they are caught unawares at the sudden, overnight emergence of the attacking swarms. Thus, the stream of infiltration, immigration and encroachment on Assam’s land takes a perennial and indefatigable form. Its consequences are equally perilous: a pristine people inhabiting the mystic land called Assam is slowly, silently and disastrously marching towards an invisible whirlpool of extinction- in terms of not only their lands or land rights, but also their very identity.

8.2. A Subject of Research: The myth though, is that there is a Government of the State democratically elected by the people to discharge its Constitutional duties of protecting the sanctity and integrity of the Constitution and no less, to protect the interests of the people whom they represent. And

yet, it mystically keeps its eyes and ears closed not to see that the State it rules is being swamped by the surging waves of millions of illegal Bangladeshi or Nepalis, nor does it see that the money minting trading community has taken to grabbing agricultural lands of the State either taking advantage of the loopholes in the law or bribing the corrupt officials in custody of the affairs of land. The GOA forgets that it is duty-bound to protect the boundaries and land of their State. The people's Governments, both at Dispur and Delhi, scared of losing the succour of illegal vote Banks and also of losing power, succumbs to the lures of the massive illegal vote banks built up over the decades, in reality, under their own invisible protective wings. The question is: wherefrom the voting power of the non-citizens not sanctioned either by the Constitution or by the Representative of the Peoples' Act, 1951 stem? Does it drop from the Blue? Besides, the morbid fear of the State leaders for their reigning Gods of Delhi keeps their conscience un-burnt, even if the surging millions of the invaders swamp the land they rule. Therefore, the immigration, infiltration and encroachment of all classes of land are going on and on. To make the things worse, the indigenous lots, made up different pristine tribes, clans and ethnic groups, are afflicted with the malady of ease-loving, aversion for hard labour and dependence on the Bangladeshis. So queerly and ignorantly, they in effect connive at such encroachment when they hand over their land for cultivation by these illegal immigrants. Yet, they cry hoarse, launch agitation and face the bullets often to sacrifice their lives demanding deportation of the illegal Bangladeshi. However, their cries are cries in the wilderness and therefore, invoke no attention of the powers-that-be. And all this provides a fertile soil for research in to an unexploded myth that is, as to why the Governments and the people behave the way they do, and further, why there is none- no intellectuals, no educationists, no administrators or social leaders, much less politicians, to feel concerned, even if their eclipse of identity in the whirlpool of surging infiltration from the most fertile human factory of the world, is imminent.

8.3. In this dismal situation, the picture for the indigenous people is grim, the sky of their hope is gloomy and the prospect of their survival is sham or illusory. The disaster they are confronted with is no better than a mass suicide by a pristine people-who include not only the government leaders made up the indigenous people, but all classes of the same people at all levels who may be either corrupt or callous, hypo crates or self-seekers, intellectuals or scholars and teachers or bureaucrats. In fine, this is an instance, which presents a very wide field for research by the international researchers to find out as to why this mass suicidal situation has happened and persisted.

8.4. The Magic that Charms the Immigrants: It is true that this mystic land called Assam- a land-unique in its charm to cause exodus of all earthly beings from all directions and to all places – be they reserved forests, roadside or riverside reserves, Government waste land or water bodies or hills or the lands comprised in protected Belts or Blocks or the land assigned to religious and charitable institutes including the satras, the temples, the Thaans or any other place of sanctum sanctorum- lures all. The lust for grabbing of land knows no limits-whether it is a town land or an agricultural land in the rural or semi-urban areas or whether the land be a hilly region or a forestland or a Beel or a River. The question is: where does all this lead to? Let us examine how grave the situation has become in the face of unrestrained, incessant encroachment systematically made by the unceasing swarms of invading locusts.

8.5. Why an Exclusive Chapter on Infiltration and Encroachment? It needs to be clarified that the Committee has already discussed the gravity of the cancerous malady named infiltration and encroachment on all kinds of land. The purpose of highlighting them in a separate chapter even at the cost of repetition here and there is to provide an insight in to the mysterious conduct of both the Government and the people tolerating, encouraging and facilitating, either directly or indirectly this

suicidal infiltration and encroachment on land. The Government of Assam in tandem with the Government of India had not only encouraged and facilitated the protection and shelter of the millions of illegal Bangladeshis by enacting a strange law called the IM (DT) Act, 1983, lured by their illegal vote banks until the Hon'ble Supreme Court of India had struck it down on 12 July, 2005 on the ground of its being *ultra vires* the Constitution of India, with the observation that the Act was passed in order to protect and shelter the illegal Bangladeshis and not to detect and deport them. This official protection and shelter lasted for 22 long years. The people of Assam had indirectly contributed to the continuous infiltration and shelter of the Bangladeshis by not doing their works by themselves and instead, being dependent on the illegal Bangladeshis for avenging their lust for lethargy and false vanity as also living their easy mode of living a sheer hypocrisy. Viewed from the national perspective, this is a perilous situation, which must be brought to the sharp attention of one and all and put to end, if Assam and the indigenous people of Assam have to survive the unassailable onslaught from across the Bangladesh Borders.

8.6. Sprawling Char Villages of Assam: Encroachment Galore: It is behind this sad background that the Char villages have been overtaken almost entirely by the immigrants from across the Indo-Bangladesh International Borders reinforced by those of Bangladeshi origin who might have by now been tagged as Indian citizens. The most disastrous outcome of this menace has been that it has unleashed grave threats to the very identity of the indigenous people of Assam, let alone their land rights, This invasion is still going on and with even greater ferocity such that Mullan's forecast has already proved true. The wonder of the wonders is that despite the existence of democratically elected Governments, the invasion on land all throughout the length and breadth of Assam has been going on without any let or hindrance. The fact that a strange Act called the Illegal Migrants' (Determination by Tribunals) Act, 1983 was enacted by the Governments at Dispur and Delhi and that too, when in the heyday of the Agitation on foreign nationals issue during 1979-85 there was no true representative in the Parliament has exposed the Governments at both Dispur and Delhi to be foreigner-friendly. The Unconstitutional Act, though repealed by the Supreme Court had nevertheless protected these illegal Bangladeshis, during the 22 years of its life. When the Governments of the land encourage such unfettered infiltration in to its land, what force on earth can check the waves of infiltrators? In the results, the length and breadth of the Char areas are encroached and inhabited by illegal immigrants who form 99% of the char population comprising either persons of Bangladeshi origin or illegal Bangladeshis.

8.6.1. As mentioned in Chapter 4, the chars are mostly non-cadastral villages where from no revenue is generated, and the Government has not an iota of control and authority over the habitats and the land. The real lords of the Char areas are the Dewanis or the Mattabbars and the Government have no teeth to show there, let alone detect the foreigners or protect the indigenous people of Assam, from the depredations or crimes perpetrated on them and the helpless local people not excluding the Satra population, have to live their sleepless nights out of fear for their lives in the face of assaults on land and the people.

8.6.2. The Committee re-iterates and recommends that to address the real problem; the Government of Assam launches a special comprehensive cadastral survey in all the permanent Chars by identifying the permanent and transitory Char villages, identifies the illegal Bangladeshis, if necessary, with the help of those of their class now promoted to the status of Indian citizens. The transitory chars have to be exempted from human habitation for ecological reasons, particularly having regard to the fact by reason of such settlement in the transitory Char areas, the course of the mighty Brahmaputra gets obstructed and the obvious fall out of this is fresh erosion of new villages.

8.7. Encroachment of Satra Lands: While no methodical Land Survey has been conducted to determine the exact extent of encroachment on the Satra and temple lands, various estimates have been made by different authorities including the Satra Mahasabha of their respective land under encroachment. According to a rough estimate, more than 8000 Bighas of lands belonging to different Satras of Assam (besides that of the Madhupur and other Satras in West Bengal) are under encroachment of the Bangladeshi Muslim encroachers. In order to salvage the lands from the encroachment and protect the life of the Satra people, the Management Board of the Satra land needs to be reoriented and re-strengthened. The table below shows that the total land of just 26 Satras under encroachment by the illegal Bangladeshis is estimated by the North-East Policy Institute at 5548 bighas:

8.8. Encroachment on Temple lands of Assam: Like in the case of the Satras, there has not been conducted any formal survey of temple lands which have been encroached upon. However, what is indisputable is that huge areas of temple lands have been under encroachment by the illegal Bangladeshi all over the State of Assam. Again, like the fact that huge areas of Satra land have been acquired by the State Government under the Assam State Acquisition of Land Belonging to Religious or Charitable Institution of Public Nature Act, 1959, so also huge areas of the temple lands have been acquired under the said Act. It is reported by Sri Siva Prasad Sarmah, the present Doloi and the former Superintendent of police under the government of Assam that around 26,000 bighas of Hayagriv Madhab Mandir, Kedar, Kameswar and Ganesh temple of Hajo alone have been acquired by the Government of Assam and have settled the same with the ryots. However, a big chunk of temple land measuring 40 bighas has been under encroachment by the illegal Bangladeshis. **Hajo happens to be a unique place of *sanctum sanctorum* where the Muslim and Buddhists Bhaktas pray in congregation- a unique example of socio-religious unity. Perhaps it is one of the reasons for which the Ahom and the Koch kings had reportedly made huge grants totalling 55, 000 bighas of land, of which the five temples mentioned above together now hold just a pittance of mere 27 bighas of land.** This speaks volumes about the non-involvement of the government in the management of the Satras and the Temples which also contributed to the mismanagement by the Satra and the temple authorities.

8.9. The committee sincerely feels and recommends that the government of Assam takes active part in streamlining the management of these places of Sanctum Sanctorum and appoints a Statutory Management Board for each of the Satras and temples fulfilling certain minimum norms in terms of number of Bhaktas etc as has been done in case of the Wakf properties.

8.10. Encroachment on Forests and Hills: Forests have several crucial functions and make immensely valuable contribution towards producing vibrant environment, health and welfare of the population and also acts as a treasure mine by producing multifarious forest resources including valuable timber, stone quarries and flora and fauna. One of the most dreaded dangers to the world environment has come from the sustained denudation of forests and hills, particularly dwindling population: forest ratio.

8.10.1. The scientists have estimated that a minimum of 33 % of the total surface of a country or a State should be covered by forests. Assam's forest coverage has been so fast deteriorating during the post-independence era that while in the good old days, its coverage was as high as 67%, it has now dwindled to a mere 24 percent. However, even this remains only in paper. Actually, it is doubtful if, in terms of average number of trees sustainable in a given area, it would come to anything more than a mere 15% to 18 percent. Wanton corruption amongst the custodians of the forests, that is, the

government leaders and bureaucrats, illegal felling of timbers, resorting to destruction of other forest resources and above all, being enmeshed in corruption at both political and bureaucratic levels has been a devastating factor, which has brought the ruinous spell to the forest resources. The following facts and the figures indicated in the table 8.1 And 8.2 paints a depressing picture of the existing status of the forest coverage in Assam: -

8.10.2. Forest Coverage in Assam: The total forest areas of Assam cover 26,832 km², accounting for 34.21 percent of the total geographical area of the State, with a share of 3.5% of the total forest area of the country, as a whole, as per India State Forest Report, 2015. Out of the total recorded forest area, Reserve Forest area constitutes 17, 864km².i.e., 66.58 percent of the total area, and the un classed forest constitutes 8968 km². that is, 33.42 percent of the total area. As per the India State Forest Report, 2015, there is a decrease of 48km². The decrease is mainly due to encroachment in the forestland, though biotic pressure and shifting cultivation has a minor contribution to this decrease. Disastrous as it is, the per capita forest and tree coverage in the State constitutes 0.094 hectare against 3.68 percent of India. The Table below reveals that there is depletion 77Km² of moderately dense forest cover in the state and an addition of 32 Km² of open forest cover (2013 and 2015). It farther reveals that there is a decrease of 3 Km² in respect of very dense forest (VDF). The norms of minimum forest coverage required as per the National Forest Policies of 1952 and 1988 is one third of the total surface area. Thus as already mentioned, the actual forest coverage in the State of Assam is less then 24% of the total geographical area of the State.

Table 8.1

TRENDS IN THE FOREST COVER IN ASSAM

Item	Very Dense Forest	Moderately Dense Forest	Open Forest	Shrub	Non Forest	Geographical Area
As per Assessment in 2011	1,444 (1.84)	11,404 (14.54)	14825 (18.90)	182 (0.23)	50583 (64.49)	78,438 (100.00)
As per Assessment in 2013	1,444 (1.84)	11,345 (14.46)	14,882 (18.97)	182 (0.23)	50585 (64.50)	78,438 (100.00)
As per Assessment in 2015	1,444 (1.84)	11268 (14.37)	14914 (19.01)	384 (0.49)	50431 (64.29)	78438 (100.00)
Net Change in 2015 over 2015 (-)/(+)	(-) ³	(-) ⁷⁷	(+) ³²	(+) ²⁰²	(-) ¹⁵⁴	

Note: Figures in brackets indicate percentages to the total geographical area.

Source : Forest Survey of India, 2011, 2013 and 2015

The table below shows the forest and tree coverage in the State.

Table 8.2

FOREST AND TREE COVER IN THE STATE

Forest and Tree Cover	Units	2009	2011	2013	2015
Area of Forest Cover	Km ²	27692	27673	27671	27623
Area of Tree Cover	Km ²	1590	1564	1582	1613

Total areas of Forest and Tree Cover	Km ²	29282	29237	29253	29236
Forest and Tree cover to the Total Geographical area of the State	Percentage	37.33	37.27	37.29	37.27

Source: Forest Survey of India Reports, 2009, 2011, 2013 and 2015

8.11. Vulnerability to Encroachment of the Illegal Bangladeshis: The issue of protecting the land rights of the indigenous people of Assam is inseparably linked with the issue of incessant flow of Bangladeshi infiltrators into Assam and other North Eastern States. The more the number of infiltrators, the more is the need for living space and jobs for earning their bread. After they have fully occupied the riverine islands (Char Areas) now these migrants are moving out to jungles and hills areas and such movement has resulted in denuding the forest and hill areas on large scale, thereby hastening the process of environmental degradation. According to the Forest Survey of India, Assam tops the list in the whole country in respect of denuding the forest state wise. The report of the Forest Survey of India presents a very alarming picture. According to this report, 20,000 Sq. K. M. of forest have been destroyed since 1991. Assam had 24.58% forest areas within its total area of land mass. This accounted for 27,826 Sq. K. M. The Forest Survey of India reported that between 1991 and 2003, 12,833 Sq. K. M. of deep forest had disappeared. According to the same report, by 2003 Assam was left with 1684 Sq. K. M. of deep forest.

The following table will give a vivid account:

Table 8.3.
District wise Forest area between 1991 and 2003

Name of districts	Forest area in 1991	Forest area in 2003
Barpeta	199 Sq. K. M.	35 Sq. K. M.
Cachar	338 Sq. K. M.	91 Sq. K. M.
Darrang	85 Sq. K. M.	17 Sq. K. M.
Dibrugarh	1317 Sq. K. M.	26 Sq. K. M.
Dhubri	264 Sq. K. M.	20 Sq. K. M.
Goatpara	147 Sq. K.M.	NIL
Jorhat	76 Sq. K. M.	NIL
Golaghat	141 Sq. K. M.	15 Sq. K. M.
Kamrup	697 Sq. K. M.	69 Sq. K. M.
Karbi Anglong	6044 Sq. K. M.	684 Sq. K. M.
Karimganj	376 Sq. K. M.	2 Sq. K. M.
Kokrajhar	1401 Sq. K. M.	207 Sq. K. M.
Lakhimpur	330 Sq. K. M.	4 Sq. K. M.
Nagaon	685 Sq. K. M.	72 Sq. K. M.
North Cachar (Now Dima Hasao)	1995 Sq. K. M.	187 Sq. K. M.
Sibsagar	245 Sq. K. M.	15 Sq. K. M.
Sonitpur	245 Sq. K. M.	71 Sq. K. M.

8.12. This table suffices to confirm the extent of environmental damage caused mainly because of the search for living space by illegal immigrants. It is also true that the local people on their part must have contributed, though in lesser degree, to these catastrophic happenings. In only 2 years between 2009 and 2011, 549 Sq. K. M. deep forests have disappeared in the North East. According to another report

from the same source, in last 10 years, 330, 560, 42 hectares of forest land have been encroached upon. The insensitive attitude of the State Government towards encroachment into even Wild Life Sanctuaries and reserve forests, mostly by immigrants Muslims is illustrated by the following table:

Table 8.4
Decrease in Forest Coverage Reserve Forest/ Wild Life Sanctuary wise

Name of the Sanctuary/Reserve Forest	Original Area (in hectares)	Encroached area (in hectares)
Burachapori	4406	2850
Laokhoa	7013	400
Sonai-Rupai	22,000	1900
Nameri National Park	20,000	2100
Kazironga National Park	42,900	7790
Manah National Park	50,000	1700
Barnadi Sanctury	2622	600
Dibru-Saikhoa National Park	34,000	300
Orang	7,881	800
PabitOra	3800	200

Both the above tabulated charts should suffice to illustrate how the Forest Department had connived in perpetrating such anti national and environment-degrading malpractices.

8.13. Status of the National Parks and Wild Life Sanctuaries: Assam has as many as five National Parks, two of which are designated as World Heritage Sites by the UNESCO in 1985. There are also twenty wild life sanctuaries, numerous reserve forest and perennial water bodies. These National Parks and Wild Life Reserves are the safe haven for a wide range of rare endangered animals, birds and rich floral diversity. The National Parks and Wild Life Sanctuaries and even the reserve forests are the treasure troves of Assam made up of charms, beauty and resources that could be turned into tourists' paradise for tourists from all over the world. The total wild life protected areas of Assam at present is 3817.92 Km².

8.14. Encroachment Galore: However, there has been large scale encroachments on not only most of the reserve forests but also on the Wild Life Sanctuaries and the National Parks, particularly the Manas National Park, Nameri National Park and Dibru-Saikhowa National Park, and to some extent, the Orang National Park. Unless these encroachments on all the National Parks, the Wild Life Sanctuaries and the reserved forests are removed by launching massive eviction programmes backed by adequate armed forces, the existence of these priceless natural possessions are at stake. It also must be ensured that no such re-encroachment, once evicted, should be allowed to take place. This only means that the State Government must create and maintain an adequately and appropriately armed Task Force to match with the menace and magnitude of encroachment on all classes of land. It is important to realize that Assam being a part of eastern Himalayan region, a bio-diversity hot spot, the issue of conservation of forests and biodiversity in the State assumes significant importance in the face of anthropogenic pressure and anticipated impacts on climate change on forests ecosystems. Moreover, forests are the vibrant source of livelihood to marginal sections of tribal people. They are also no less important in

terms of ecological services, soil and water conservation/ sequestration. It can rightly be said that sustenance of adequate forests is necessary also for the security and safety of the State's agricultural community in that their progress and prosperity are highly dependent, on the ecological harmony firstly because, it controls the climate/rainfall of the adjoining region which is so very essential for crops and cultivation. Secondly, forests act as anti-erosion measures Thirdly, due to unchecked denudation of the forests, the animal population, particularly the elephant specie, has been causing wanton destructions in the villages, damaging crops and cultivation, residential houses and other homestead resources due to which the poor villagers have not only suffered but also has lost the safety and security of their life. Thus, all encroachment in the forest areas attracts their immediate removal

8.15. Depleted Forests to be Replenished by Afforestation Programmes: Afforestation means creation of a new forest through human efforts in an area where either there was no previous tree cover or, though there was a natural forest, it has been so completely denuded that the natural forest for all practical purposes have disappeared.

Many governments and non-governmental organizations directly engage in programs of afforestation to create forests, increase carbon capture and carbon sequestration, and help to anthropogenically improve biodiversity. In the UK, afforestation may mean converting the legal status of some land to "royal forest".

In some places, forests need help to re-establish themselves because of environmental factors. For example, in arid zones, once forest cover is destroyed, the land may go dry and become inhospitable for new tree growth. Other factors over-harvesting of trees and other forest resources. Together these may lead to desertification and the loss of topsoil. It should be understood clearly that without soil, forests cannot grow until the long process of fresh soil creation has been completed. In some tropical areas, forest cover removal may result in a duricrust or duripan that effectively seal off the soil to water penetration and root growth. One of the reasons for recession of forest areas is that there are good numbers of instances where the forests after having been denuded have been converted in to agricultural land. In case of Assam, this has happened particularly in the forests of Golaghat District which have been denuded by the Nagas and converted later in to both agricultural and homestead lands, constructing offices, schools, churches etc on the erstwhile forest reserves land. In other areas, mechanical breaking up of duripans or duricrusts is necessary, careful and continued watering may be essential, and special protection, such as fencing, may be needed. It needs no emphasis that creation of forests, social forestry, for instance) has a fine role in conservation of soil and check erosion by a river.

8.16. Experience of China: China has deforested most of its historically wooded areas because, China reached the point where timber yields declined far below historic levels, due to over-harvesting of trees beyond sustainable yield. Although it has set official goals for reforestation, these goals are set over an 80-year time horizon and have not been significantly met by 2008. China is trying to correct these problems by projects as the Green Wall of China, which aims to replant a great deal of forests and halt the expansion of the Gobi desert. A law promulgated in 1981 requires that every school student over the age of 11 plants at least one tree per year. As a result, China has the highest afforestation rate of any country or region in the world, with 47,000 square kilometers of afforestation in 2008.

8.17. Experience of India: India has witnessed a minor increase in the percentage of the land area under forest cover from 1950 to 2006. In 1950 around 40.48 million hectares was covered by forest. In 1980 it increased to 67.47 million hectares and in 2006 it was found to be 69 million hectares. 23% of India is covered by forest.^[6] The forests of India are grouped into 5 major categories and 16 types based on biophysical criteria. 38% of forest is categorised as subtropical dry deciduous and 30% as tropical moist deciduous plus other smaller groups. It is taken care that only local species are planted in an area. Trees bearing fruits are preferred wherever possible due to their function as a food source. It would be recalled that a few decades back, Rajasthan was more or less a desert (Thor Desert). But the Government of Rajasthan has heralded a new dawn of wisdom to plan it in such a way that in place of a desert, the state of Rajasthan has been transformed into greenery and a tourists' cherished destination.

8.18. Dismal Picture of Denudation of forests in Assam: We have already described the dismal picture in the important arena of the protection of forests in Assam. If anything, it is not protection, but denudation of forests in Assam which is in tune with the characteristics and destructive culture of Assam. To avoid repetition of what has been elaborately described in Assam, the government of Assam should launch a State-wide vigorous afforestation/ re-plantation Plan not only to regain the lost forests gradually but also to restore the health of the deteriorating environment/ ecological balance but also to retain the productive capacity of the agricultural land, checking erosion and protecting the rural population from the elephant depredations who, for want of their habitats, cause retributive damage to the crops in the field and the valuable properties in the households. In other words, creation of new forest plantation with adequate arrangement to sustain their growth would save the elephant-oppressed, erosion affected people of Assam

8.19. Utility of Forests Analysed: There can be no two opinions about the necessity of forests for the very survival of mankind. Forests play an invaluable role in maintaining the environmental stability and ecological balance. The varied vegetations absorb the Carbon dioxide, which we exhale and release the Oxygen, which we inhale for our survival. The process of Carbon sequestration is involved in carbon capture and long-term storage of atmospheric carbon dioxide and thereby forest trees mitigate and defer the global warming by slowing down the accumulation of green house gases. Further, forest vegetation arrests the soil erosion by obstructing the surface run off and thereby facilitates percolation of the rain water, which enriches the groundwater level. Its clear example is the flash flood experienced by the Guwahati city dwellers after every down-pour because of the destruction of forests by the encroachers in the hills in and around Guwahati city leading to soil erosion and running down the entire surface run-off instantly without any obstruction and without any percolation of the rain water downwards. Such erosion has resulted in demolition of residential houses and death of those families who had taken to constructing houses by cutting hills.

8.20. The Danger: Forest is also the home of all biodiversity. It is well known that the state of Assam is extremely rich in biodiversity with 3017 species of flowering plants, more than 193 species of wild orchids, 42 species of bamboos, 14 species of canes, more than 164 species of mammals, 10 species of primates, more than 800 species of birds (out of which 280 species is migratory), more than 60 species of amphibians, 1500 species of butterflies, 116 species of reptiles and more than 70 species of fishes. Destruction of forests and consequent depletion of the food base has led to the inevitable situation of man-animal conflict occurring so frequently throughout the state. Considering all these

aspects, the National Forest Policy, 1988 has envisaged that at least one-third of our geographical area and two-thirds of our hills and mountainous regions should be maintained under forest cover. Unfortunately, however, as per the State Forest Report, 2015, published by the Forest Survey of India, the notified forest area (Reserved Forests, Wildlife Sanctuaries and National Parks) in Assam is only 22.69% of the State's geographical area. Geologically, Assam being too fragile, there is need to have more forest covers than what is envisaged by the National Forest Policy. Unfortunately, however, not to speak of having more areas of forest cover, even the existing forests have also been encroached upon. As per the "Assam Forest at a glance" published by the Forest Department., Government of Assam during 2011-12, at least 3,555 sq. km. of the Reserved Forests (which is 4.5% of the geographical area) have already been encroached upon, which is only a conservative estimation, as it is not possible for the forest staff to go and measure the encroached areas correctly due to stiff resistance offered by the encroachers. As per Govt. records, there are 145 Proposed Reserved Forests in the state comprising 3,103 sq. km. and there are about 5,865 sq. km. of Un-classed State Forests. But these all seem to be in records only. Physically there is hardly any existence of these areas. Under the situation and seeing the present conditions of the remaining forests, it is suspected that the State might be having only about 15 to 17 percent of the geographical area under forest cover in the notified forest areas. The conditions of the forest cover in the remaining forests are also not at all encouraging. Lots of areas under Very Dense Forests (canopy density more than 70%) have already been converted to Moderately Dense Forests (canopy density between 40% and 70%) and also to Open Forests (Canopy density between 10% to 40%). So, for the purpose of maintaining the environmental stability and ecological balance, which is a must for our own survival, the state can't afford to lose any more forest area to anybody at any cost. Keeping this in mind, it is therefore necessary that there should be absolutely no compromise in diversion of any forest land for any purpose without following the due process of law.

8.21. Protective Measures Needed: For proper protection, preservation and also enhancement of the forest areas, the following steps are suggested:

8.21.1. There are allegations that pattas have been issued and sometimes "touzi bahir" is realized even for lands falling within notified forest areas because of non-correcting the revenue records after issue of the Govt. Notifications. So to avoid this type of situation, all the revenue records should be verified and rectified incorporating all the notified forest areas. This also suggests that some amount of co-ordination between the revenue and the Forest Departments in selected areas are necessary.

8.21.2. All the notified forest areas should be clearly identified and demarcated properly, so that everybody knows the area and the status of the land without any problem.

8.21.3. No Govt. facility including road communication, electric power supply, water supply, health facility, educational facility and any other assistance under any welfare scheme should be provided in any encroached area. No encroacher should also be considered for any Govt. job. Action should be taken against the Government officials who extend any Government facility in any encroached area.

8.21.4. For addressing the problem of encroachment by landless people as well as the people affected by natural calamities like flood, erosion, earthquake etc., Government should constitute a "Land Bank" with the land available with the Government, but outside the notified forest areas, which should be utilized for rehabilitation of such type of landless and natural calamity affected people.

8.21.5. It is alleged that in several forest areas encroachers are occupying large areas. So these encroachers should be enumerated and rehabilitated, in deserving cases, elsewhere in the areas within the "Land Bank" giving them a reasonable area for the livelihood of each family to enable to recover at least some of the notified forest area.

8.21.6. Steps should be taken to identify the Proposed Reserved Forests and to notify them as Reserved Forests after following the due process of law.

8.21.7. For enhancement of the forest areas, steps should be taken to identify the fragile and vulnerable areas and then notified as Reserved Forest or Protected Area (Wildlife Sanctuary or National Park) depending upon its necessity and importance.

8.21.8. For improving the forest cover, massive plantation programme should be launched with ecologically suitable species and all silvicultural exercises should be taken up in every available areas with the aim to have all the forest cover as Very Dense Forest (with the canopy cover of 70% and above).

8.22. Status of the water bodies of Assam: Assam, particularly the north bank of the Brahmaputra, is dotted with large water bodies, constituting 43% of India's total number of water bodies. There are about 4000 such water bodies in the State. Of course according to official records there are 3931 such lakes in Assam. These water bodies are very rich natural resources of Assam. And with little imagination and planning, these could have been converted into profit making fisheries. Only 25% of these Beels/lakes have been utilized for pisciculture. Which is why, Assam has to import large quantity of fishes from outside Assam. Even a well- sketched map of these natural water bodies, may not have been prepared either by the Revenue Department or by the Fishery Department. Still more significant is the fact that these water bodies possess the possibilities of being developed into Eco-Tourism Centres like the 'Lake District's of England. In the absence of well demarcated boundaries and the reliable map, it has been possible to encroach upon these lakes and in this respect also, the immigrants Muslims have been very enterprising. In many places the system of wet cultivation has been extended by the immigrants into the bed of these lakes, thereby not only causing environmental degradation but also hastening the end of these water bodies. Such wet cultivation has been instrumental in reducing the original size and depth of the Beels/ lakes. Ultimately these priceless water bodies will dry up and put to use as paddy fields. Neither the Government nor the indigenous people of Assam seem to have realized that these immigrants are destroying the rich heritage and potentials of these lakes to the detriment of the overall interests of the State. At the same time, bio-diversities have been put on heavy premium. Necessary preventive measures are yet to be in evidence. The Committee is deeply anguished that the government of Assam has failed to enact even an effective law for protecting the water bodies of the entire Assam from indiscriminate encroachment mostly by the illegal Bangladeshi immigrant, who have taken to cultivating the water bodies/ Beels, and virtually led them to extinction. The internationally famous Deepar Beel, a Ramsar site is a living and disquieting example of how crop cultivation or dumping of mountains of garbage and wastes can cause death of this most treasured water body of Assam, let alone adopting strict prohibition measures otherwise. The Committee recommends that in order to ensure protection of all the water bodies of Assam from encroachment or causing degradation by doing crop cultivation, the Government of Assam should enact a strict law effective all throughout the State on the lines of The Guwahati Water Bodies (Preservation and Conservation) Act 2008, which would not only protect the existing water bodies but will also create new ones wherever such creation is feasible or congenial

8.23. Erosion as a Ploy of the Immigrant Muslims to settle on the Water bodies: During last few decades, many villages have been eroded away by the Brahmaputra and its tributaries. Unfortunately, no records are available in respect of the damages thus caused. Many infiltrators while caught take the plea that they were inhabitants of the eroded villages. Such claims have never been verified because no records have been built up. These illegal Bangladeshi have taken full advantage of the lack of proper Government Records to show the spread of various water bodies, big and small, of Assam. It is therefore, recommended that the Government of Assam urgently prepares a correct list of villages eroded away and the details of the inhabitants of these villages and also keep a proper tract of the movements of the immigrant Muslims roaming in search of vacant land or water bodies for grabbing and settlement.

8.24. Encroachments of the Inter-State Border Areas by the Neighbouring States of Assam : As stated in Chapter- 1, Assam has long borders with Nagaland, Meghalaya, and Mizoram, the erstwhile districts of Assam as also with Arunachal Pradesh, formerly under the administrative control of the Governor of Assam. All of them have disputed their boundaries with Assam either because the original boundaries were not well marked or so they claimed or they had shown reasons to dispute the accuracy of the boundaries so marked or as claimed by Assam. Consequently, disturbing boundary disputes between Assam on the one hand and these neighbouring States on the other exist leading to harassment, extortion and insecurity of the residents on the Assam side of the borders. The occasional skirmishes or armed clashes that take place amongst these neighbouring States naturally create highly volatile law and order situation to the State Government of Assam. The ferocity with which terrorization, harassment, extortion and criminal intimidation are resorted to by the Naga terrorist organizations to the inhabitants of the Assam living on the border areas, often compel the residents of Assam to flee from their villages as fall outs of such terrorization lead to arson of villages, killing of innocent people of Assam, extortion and, in fact, all sorts of fear and harassment.

8.24.1. Claims by Nagaland: Nagaland's claim on Assam's territory sweeps the entire Dima Hasao District and practically half of the present Karbi Anglong District, in addition to substantial chunk of Nagaon district. Wanton destruction and denudation of forests and felling of the most valuable trees of the extensive sectors of the forest reserves, converting the same in to cultivable and town land with construction of Government offices, post office, roads and buildings, schools and churches etc. These activities of denudation of forest and constructions of buildings and roads have been going on unabated over the decades due to administrative lax of the Assam Government. As a result, the people of Golaghat and Sibsagar districts have suffered most. The Naga predators not only extort money from the people of Assam but also resort to terrorizing them leading often to killing of innocent people, burning of living houses and removal of tea plants from the tea gardens as also crops and cattle. Some of the dreaded attacks made by the Naga predators on Assam villages include attack on (i) Chungajan village killing 54 innocent people, burning 467 huts and inflicting grievous injuries to many more (ii) The New Chunthia attack (1982) in which a large number of people attacked the Border Outpost and seized it and (iii) the heart rending armed attack on Merapani (1985). The attackers overran the Merapani Police station and the BOP. As a result, 41 innocent people including 28 policemen lost their lives (iv) Then again in 1989, the Rajapukhuri armed clash took place which in turn claimed 25 innocent lives.

8.24.2. Framework Agreement Between the government of India and the NSCN (IM) for Creation of a Greater Nagaland: The Indo-Naga Framework agreement, signed on August 3, 2015, has established the broad principles that would guide the future deliberations between the Government of

India and the National Socialist Council of Nagalim-IM. The content of the agreement has not been disclosed. The Prime Minister did not share the details even with members of his Cabinet or Members of Parliament. The NSCN-IM also has not given any inkling to the Naga people about what was included in the agreement.

8.24.3. . Two aspects of the Framework Agreement have been made public—acceptance of the “uniqueness of Naga history and culture” by the Indian Government and the acceptance of the primacy of the Indian Constitution by the NSCN-IM. While Atal Behari Vajpayee, the erstwhile Prime Minister of India had acknowledged the “unique history of the Nagas” in 2003, the NSCN-IM had reportedly accepted the “primacy of the Indian Constitution”. If this is true, then, the agreement has infused a new element. It puts at rest the earlier ambiguities about the NSCN-IM’s position on the Indian Constitution. It, therefore, seems that the NSCN-IM has abandoned the objective of establishing an independent sovereign state for the Naga people. And, if the past 18 years’ experience is any guide, then it can be assumed that the Indian Government is unlikely to cede the territories of other States claimed by the Nagas.

8.24.4. However, the inexplicable secrecy that has been nourished in this highly sensitive issue of great concern and suspicion amongst the States of Assam, Arunachal and Manipur, is one of the queerest features of this 18-year-long negotiation process. Secretiveness comes naturally to intelligence agencies and underground-armed insurgent groups. In addition, as senior officers of India’s intelligence agencies and the NSCN-IM are conducting the talks, it is not unexpectedly that they would like to keep their negotiations under wraps. While there may be some valid reasons for keeping the contents of the agreement a secret, the question arises: why then publicise the signing of an agreement when you cannot disclose the content? The secretiveness also creates doubts and suspicions about the nature of the agreement among relevant stakeholders amongst the neighbours who have been excluded from the peace dialogue. It has set off waves of anxiety, especially in Manipur and Assam, over the fundamental contradiction in the North-East—between claims to territory and people’s self-determination rights.

8.25. Some Historical Insight: Frustrated with lack of progress in the negotiations, nearly nine years after the beginning of the dialogue, the NSCN-IM had submitted a “Framework” for negotiations during its meeting with the Indian representatives in 2006 in Amsterdam. The NSCN-IM proposal had introduced a concept of a political arrangement based on the principle of “asymmetric federalism” which would be substantially different from the relationship existing between the Centre and Indian States. It was suggested that the new entity of Nagalim/Nagaland would have a separate Constitution, “within the framework of the Constitution of India” and it would be included as a “separate chapter” of the Indian Constitution. The Framework “also contained a 20-point charter of demands. In this Charter, the NSCN-IM had sought the unification of all Naga-inhabited areas of the North-East, separate representation at the United Nations and greater rights over natural resources, finance, defence and policing. This is a fantastic proposition which no neighbouring State would concede. And in the face of such fantastic demand and the Government of India’s nonchalant wisdom of keeping the stakeholder States in the complete dark of these burning truths, uneasy suspicions and anguish have naturally ruled the minds of the common people precipitating the social stability of the region

8.25.1. Integration of All the Naga inhabited Areas Neither Feasible nor Desirable: Let us look at the other demand—the integration of all Naga inhabited areas within the Indian territory under one political administrative set-up: Nagalim. Speaking on this issue at the 69th Independence Day

celebrations of the Nagas in Dimapur, Muivah did not address the integration issue directly. He simply said the framework agreement would pave the way for the final accord. He also promised that "all Naga groups and stakeholders would be consulted before the final deal is done". He further said: "Nagas will have their rights, but we should also respect the rights of the neighbouring States." Irrespective of what the NSCN (IM) leadership feels, the harsh truth is that no State shall ever concede even an inch of land to the Naga people in order to fulfil their dream of constituting a greater Nagalim by snatching away other states' territories simply because they happen to live in others' States irrespective of what the Framework Agreement might provide. India is a democratic country and her citizens have right to live in any State of India, if they like. But that does not create a ground for transferring those areas to another State which is their original home land. If that were to be done, then it would destroy the very sanctity of the Indian Constitution. Of no less consideration is the fact there cannot be any question of the Non-Nagas of Assam for alienation of their land rights for satisfying the demands of Nagaland. The report of the Sundaram Committee while giving an insight in to the nature of the problem brings out the truth of it.

8.25.2. Sundaram Committee's Report Should be Given a fair Trial: The Inter State Boundary Disputes have also resulted in depriving the indigenous people of the rights over their own land. History of the Assam Nagaland Border disputes have been very exhaustively and lucidly dealt with the Sundaram Committee. If, without going into its details, a reference to a few of the points focussed in the report is made, then it should suffice to conclude that the said Report clearly says that the dispute arose from the unmassaged hunger for expansion of its territorial jurisdiction and its uncompromising stand to claim Assam's land. To make its grasp easy as also to seek a satisfactory end of the languishing story, Sundaram Committee has written its comprehensive report which should be given a fair trial, if necessary, by subjecting the same to further review for determining its acceptability or otherwise.

8.25.3 The Harsh Reality: The harsh reality which must be faced is that the hunger of the Nagaland Government and the various Naga organizations for more and more territories of the neighbouring States has never been assuaged. A very disturbing development which has very recently taken place is that the Nagaland Government has set up another new Sub divisional office on land very much inside the Golaghat District of Assam. This has generated burning rage in the entire population of Assam and the people from all walk of life have expressed gross anguish against the Government of India for keeping the burning issue like Framework Agreement secret thereby generating suspicion. The Government of Assam has lost its political initiative understandably because in the whole matter the Government of India (GOI)'s secret decision is involved. Be that as it may, the truth that should dawn on the Government of India and the Nagaland Government is that the people of Assam like those of the other two neighbouring States, shall never agree to any proposal that would entail ceding of even an inch of Assam's land because what the people of Assam demand is to return more than the 66, 000 acres of land that are now within the illegal grab of Nagaland.

8.25.4. Disputes With Meghalaya: Disputes between Assam and Meghalaya persist on 12 places along the border because the inter-state boundaries between these two neighbouring States have not been properly determined and in absence of which claims and counter-claims between the two States are going on, even leading to firing and loss of life as it happened in case of Langpih, Boko disturbed the peace of the region. Meghalaya claims that disputes persist in respect of 12 places of which the hillock on which the Assam State Guest House which is currently occupied by former Chief Minister of Assam Mr. Tarun Gogoi is one. The Assam State Guest House stands on the Khanadhura hill which falls within

the Khanapara Pilangkata Block. The areas of boundary disputes along the inter-state border include Upper Tarabari, Gazang reserve Forest, Hahim, Langpih, Borduar, Boklapara, Nongwah, Matamur, Khanapara-Pilangkata, Deshdemoreah Block I and Block II. The unfortunate firing of Langpih took place on May 14, 2010. According to Mr. Tarun Gogoi, the Former Chief Minister of Assam, disputed areas include Upper tarabari, Gazang Reserve Forest, Hahim, Langpih, Borduar, Boklapara, Nongwah, Matamur, Khanapara-pilangkata, Deshdemoreah Block I and Block II, Khanduli and retacherra. The total area of disputes comprise 2,765.14 Sq Km of which Blocks I and II cover 1583.42 Sq Km.

8.25.5. Boundary Disputes With Arunachal Pradesh: It is not that the boundary disputes of Assam exist only with Nagaland and Meghalaya. Assam has also similar boundary disputes with Arunachal Pradesh, though the magnitude of the disputes and the areas involved are much less. As per various reports published in the print and electronic media, Arunachal has encroached upon around 800 Km² of Assam's land. As is the case with Nagaland, disputes with Arunachal Pradesh when they occur often take the form of armed clashes and kidnapping of Assam government officials and the people residing along the border areas. The main reasons from which the clash stems are that these boundaries are often not well defined or when so defined, the claim of the contending parties diverges. In any case, these disputes are harmful not only for good socio- cultural relations between the two neighbouring states but also act as great deterrent to development of the regions on both sides. It is important that these disputes are settled at the initiative and leadership of the government of India, particularly in the face of the surging Chinese claims demanding Arunachal Pradesh and Sikkim to be belonging to her.

8.26. Huge Areas of Vacant Railway Land under Encroachment: Any one with average prudent and intelligence must have noticed that huge areas of land adjoining the railway lines throughout the length and breadth of Assam are lying unused and taking advantage of these non use of so vast areas of land alongside the railway lines, undesirable elements and gangs of thieves, criminals, dalals etc. have converted these railway land into huts and hubs of these anti-social elements including illegal Bangladeshis, Nepalis etc. And what is more amusing that a section of the equally undesirable persons mostly belonging to that section who wield powers or have access to corridor of powers are minting on these vacant railway land by inducing them to grab such land. The authorities are even known to have made settlement of such rootless people on the vacant railway land as a profession for making money. Consequently, these illegal constructions of huts in unhygienic condition have not only polluted the environment of the entire region but have also induced commission of various crimes including human trafficking, drugs peddling/smuggling, theft, rhino poaching and in fact all crimes that have produced a kind of social instability and anarchy.

8.26.1. This question has assumed importance because of the fact that in the interest of improving the health and hygiene of the people in the locality through development and beautification of the areas, particularly the urban areas as also for putting an end to the criminal activities resorted to by the dwellers of the huts, it is necessary to demolish the unhygienic huts to be replaced by schemes for development and beautification of the areas in question. Such programmes will beautify these areas and boost up tourism industry with concomitant economic development of the State. Such innovative action would enhance the reputation and credibility of the Government in the estimation of the people. The Committee, therefore, recommends that the Government takes up action programmes as suggested here.

Table 8.5**District wise area of land along the Railway lines**

Sl. No.	Name of Districts	Area of land
1	Tinsukia	1873B-0K-12L
2	Dhemaji	1396B-2K-19L
3	Bongaigaon	3829B-3K-8L
4	Morigaon	1948B-2K-2L
5	Dibrugarh	3921B-1K-16L
6	Hailakandi	2652B-0K-17L
7	Golaghat	4237B-4K-10L
8	Nalbari	1224B-0K-0L
9	Barpeta	3219B-2K-16L
10	Dhubri	3389B-0K-6L
11	Karimganj	4778B-3K-12L
12	Kamrup (M)	11909B-3K-6L
13	Kamrup, Amingaon	2925B-7K-18L
14	Goalpara	4538B-1K-17L
15	Lakhimpur	6128B-3K-4L
16	Sivasagar	1634B-3K-10L
17	Cachar	4170B-3K-10L
18	Jorhat	16212B-2K-10L
19	Nagaon	6152B-1K-1L
20	Sonitpur	3285B-3K-8L
21	Biswanath	4579B-4K-15L
22	Kokrajhar	11434B-4K-8L
23	Baksa	
24	Chirang	
25	Udalguri	
26	Dima Hasao	No report in the district.
27	Karbi Anglong	No reserved land.
28	West Karbi Anglong	Nil
29	Hojai	4138B-1K-8L
30	Majuli	Nil
31	Charideo	2399B-1K-0L
32	Darrang	
33	South Salmara	
	Total	111981B-4K-13L

8.27. Encroachment of Village and Professional Grazing Reserves of Assam: (VGRs and PGRs) :
Creation of adequate number of Village Grazing Reserves (VGR)s and Professional Grazing Reserves

(PGR)s for feeding the cattle of the village community and facilitating agricultural development was a farsighted provision made in the Assam Land and Revenue Regulations (1886). These provisions were designed to maintain and promote the agricultural health and boost the rudimentary rural economy of Assam in those early days of the British era. For, in that era, population pressure was practically non-existent and cattle and buffaloes could graze freely without any restriction. Even the science of animal husbandry and dairy development was in a nascent stage of their development. Under Section 13 of the Regulation, power was delegated to the Chief Commissioner to make rules for allotment of lands with no rights of a proprietor or landholder for constitution of Grazing Grounds for grazing the cattle of the villages in the neighborhood as also for their regulation and control. The authorities of the Chief Commissioner were substituted finally by the 'State Government' in 1950. With every passage of time, the human and cattle population was growing fast and with it the pressure on land. Agriculture had to be expanded to feed the growing population and the need for increasing number of grazing grounds for the cattle in the rural areas of different districts was growing as well. After independence it was expected that the national government would give greater importance to speedy agricultural growth and protecting the community facilitation centres like VGRs and PGRs. But, ignoring to foresee the ground realities, the Government of Assam made a new Rule (Rule No. 95A) in 1948 for de-reservation of the Grazing grounds in order to settle the immigrant people coming from the erstwhile East Pakistan.

8.27.1. This retrograde action had reversed the policy of creating new village grazing grounds (VGRs) for grazing the cattle of the local peasants, much to the detriments of agricultural pursuits by the rural peasants and their cattle population, that is to say, the crop cultivation and the dairy development industry in the rural Assam. The de-reservation of VGRs and PGRs had also harmed the security of many *Khutis* (ie; the cattle farms mostly set up by the Nepalis for producing milk and milk products). Thus while the professional grazing reserves (PGRs) had partially acted as a substitute for the VGRs, there was no escape for the PGRs from their imminent de-reservation in the name of giving settlement in the de-reserved grazing lands to the immigrant Muslims. And, who were these new settlers? As has been dealt with exhaustively in the foregoing chapters, it is the Sadullah Ministry who through adoption of the 'Grow More Food Campaign during 1937 and 1945, had brought thousands of hard-working Bengali Muslim peasants and got them settled on land of de-reserved forests and VGRs etc. Inherent in this scheme was an ulterior design actually to bring more Muslims to Assam. As a result, most of the large VGRs and PGRs in different districts of Assam stand de-reserved and under heavy encroachment of the immigrant Muslim peasant from the present Bangladesh.

8.27.2. As on 31.8.90, there were 3481 VGRs spread over an area of 7, 28,010 bighas of land and 225 PGRs covering an area of approximately 6,37,714 bighas of land in the State. The largest areas under the VGRs exist in Sonitpur District claiming about 1,21, 692 bighas while Dhemaji District has the largest area under PGRs covering approx.1,61,773 bighas. Owing to systematic de-reservation of VGRs and PGR to provide for land for various public and private purposes but mainly for settlement of and due to encroachment by the Bangladeshi Muslims and Nepalis, the number of areas under VGRs and PGRs have gradually dwindled. It has been estimated by the GOA that between 1972 and 1990, the grazing reserve areas on the whole have declined at an annual rate of 908 bighas. Added to this, parts of many grazing reserves have also been eroded away by the Brahmaputra and other rivers. The Committee recommends that the only way to protect the agricultural interests of the indigenous people of Assam is not only to keep the existing reserves intact and stop the practice of further de-reserving these VGRs and PGRs, but also to reverse this trend and re-reserve some of the VGRs and PGRs de-reserved for immigrant people's settlement, so as to meet the acute needs for such reserves in those villages where

there are no such reserves. It must not be forgotten that agriculture in Assam is a basic industry. Approximately with 65% or so of the cultivators have uneconomic holdings and being graded as marginal farmers, they have been pushed to abandon agriculture for want of facilities for rearing their cattle. If it really so happens, it would tantamount to pushing them to a ruinous stage which the GOA must take cognizance of.

8.27.3. The Committee also notes that Para 6.1 of the Land Policy 1989 recognizes the need for larger areas to be maintained as VGR and PGR when it says, "Endeavours will be made to preserve the existing VGRs and PGRs for use by the members of public for the purpose for which those were constituted and encroachment on VGRs and PGRs, if any, will be removed. Henceforth, the land under VGRS and PGRs will not be further decreased by way of de-reservation and allotment etc. except for public purposes under special circumstances. The words "if any" feigns hypocrisy in that it is the incumbent duty of the huge land Record staff to make seasonal field visits and record encroachment on any kind of Government land. The records of encroachment are supposed to be up to date and clear. It is to be noted that out of the old 27 districts of Assam, VGRs /PGRs do exist only in 21 districts. Where will the villagers of the remaining 6 districts graze their cattle? The moot point of this sad story is that the encroachments have been made by those who are non-tribal and are not covered by the protected class of people who ironically belong not only to non-protected classes of people but are predominantly non-Indians, that is, illegal Bangladeshis or of Bangladeshi origin later tagged as Indian citizens.

8.28. The Committee has already exhaustively dealt with encroachments in the protected belts and blocks and of how the Tribal / Bodo people have become microscopic minority in the BTAD areas in the face of unrestrained encroachment on all classes of land with denudation of hills and forests as its fall out. The dreaded incident of attack on the forest official in Gossaigaon under Kachugaon Division in 2014 and at Jharbari under Haltugaon Forest Division in Kokrajhar district the previous year has not only revealed the well-organized timber smuggling taking place from important reserve forests of the BTAD, but also exposed the incapability of the department concerned to deal with the situation. The attack on the Forest Range Officer at Jharbari in the year 2013, injuring four staff and damaging two official vehicles by a group of timber smugglers and later attack with bows and arrows in Kachugaon in Gossaigaon subdivision has proved the inability of the forest officials to tackle timber smugglers with their outdated mini rifles and few bullets. Timber smuggling and illegal encroachments in reserve forests in BTC are going on rampantly despite the concerned authorities of the forest department of the BTC often speaking launching eviction drives. **In a shocking revelation by the Executive Member (EM) of Land and Land Revenue Department of the BTC (2014), it had come to light that over 3 lakh bighas of Tribal Belts and Blocks and tribal sub plan areas had illegally been occupied by outsiders in the BTC region alone.** This was a revelation made by the EM before a Special Correspondent of a national News Paper.

The above distressing incident only shows that any talk of protection of land rights of the indigenous people of Assam needs a very firm and strong policy of clearing all lands of the State from encroachment by eviction by creating a Special Task Force armed and equipped with appropriate arms, ammunitions and manpower as recommended in appropriate Chapters/places of the Report

8.29. Encroachment in the Kamrup (Metro) District: The City of Guwahati: Guwahati, the capital city of the State as also the Head Quarters of Kamrup (Metro) district happens also to be the gateway to the North Eastern States of India and it is also no exception to the wanton encroachment on its hills and

Beels, Reserved Forests or Protected Belts and Blocks, Government Khas land or temple lands, much to the decadence of its social and environmental health. There are four reserved forests within the Metro City of Guwahati, viz, Amchang Wild Life Sanctuary, Gorbhanga Reserved forests, Rani Reserved forests and Gota Nagar Reserved Forests. In addition, seventeen lush green hills add to the beauty and grandeur of the Metro city of Guwahati. Likewise there were more than 40 water bodies including internationally famous Deepar Beel, Borsola Beel, Sarusola Beel and Silsako Beels. Situated on the very bank of the mighty Brahmaputra, the city is surrounded by the hills with sprawling open spaces in and around the city; it wears an identity of one of the most charming cities of India with Blue Hills and Red River. However, all this is marching now to become a history in that the hills and beels in the city as also in the adjoining areas have fallen prey to the malady unrestrained encroachment throughout the district's length and breadth.

8.29.1. As per the data furnished by the Government of Assam, a total area of 2046 bighas of land included in Kamrup Rural District (including Chaygaon Tribal Belt) and Guwahati Tribal Belt) are under encroachment. Though the Committee has no specific data of the total area under encroachment of land in the Kamrup (Metro) district or in the metro city of Guwahati, it is a public knowledge that the Hills and the beels and the forests or the open spaces- all have fallen to the wanton, unrestrained encroachment by the Deshi or Bideshi land-grabbers. In fact, every nook and corner of the city whether it is a wild life sanctuary or a reserved forest or a roadside reserved land or Water Bodies – all without exception have been under indiscriminate encroachment. The internationally famous Deepar Beel, Borsola and Sarusola Beels and the Silsako Beel -all have been encroached, much to the environmental hazard and health of the people. Even the Banks of the mighty Brahmaputra is dotted by huts and unhealthy cottages mostly constructed by the ineligible settlers. All the Hills in and around the city of Guwahati have been cut, the earth and the trees felled and removed, the stones extracted, the sands of the river extracted and smuggled day in and day out in the very nose of the police and forest officers . The administration is dead and there is no sign of its life anywhere. The result is obvious. During the rainy seasons, there occurs erosion of river banks and hills and every year death due to landslide from the hills causes death to a good number of residents. The Hills have not only been destroyed but have also been converted in to a densely populated area. Consequently, the ecological balance has been jeopardized; the beauty of the city destroyed and the administrative environment has been reduced to lawlessness and anarchy.

8.30. The Committee recommends that to put a stop to such a dismal situation all around the State, the Government of Assam should launch a very vigorous policy of eviction of all encroachments with a firm political will and a sense of patriotism to protect the land which belongs very much to the indigenous people of Assam, if only to protect the rights of the indigenous people of Assam from the lust of the land-hungry swarms of the illegal Bangladeshis .

Chapter -9

*“No man is above the law and no man is below it;
nor do we ask any man’s permission when we require him to obey it”*

-Theodor Roosevelt

Land Laws and the Revenue Administration of Assam

9.1. Preliminary Observations: The people on the street believe that the Assam Land and Revenue Regulations (ALRR), 1886 which was enacted by the British colonial administration principally to serve their own interests at the cost of the native people whom they considered nothing better than ordinary chattels, has been more an obstruction than a tool for serving and promoting the cause of the native people. Besides, things on the socio-economic and demographic planes have changed so materially and violently that most of the provisions made therein have not only outlived their utilities, they sincerely though ignorantly believe, but also have acted in many ways, as deterrents to progress and welfare of the native people of free India.

9.1.1. While such contentions cannot be totally brushed aside it should be clearly understood that before making such a sweeping remark, each and every crucial provision in it needs to be closely examined in the context of current socio-economic, demographic and geo-physical planes, specific and concrete suggestions as to where the law has gone wrong or acted as deterrent to the interests of the indigenous people, or what changes in particular are necessary in that context. While the Committee took pains to examine some of the crucial features of the exiting legislations, particularly the Assam Land and revenue regulation, 1886, it wishes to make it clear that the time-frame of three months originally mandated and later extended in two instalments to just ten months, had proved too meager to venture attempting any such exercises as suggesting overhauling of this or other related land laws. Besides and admittedly, the Committee cannot and does not claim that any of its members is a specialist or has even commanding knowledge on the subject which is so vast and yet so technical and sensitive in nature.. The committee, therefore, has, of necessity, confined itself to touching upon some of the general features of the provisions of the important land laws and the efficacy or otherwise of their administration by the Government machinery in the Land and Revenue Department at various levels.

9.1.2. The Committee understands that ultimately it is the Land Policy that guides and determines as to what law is to be enacted or what provisions in the land laws are to be made or what changes in the existing land laws need to be made, if only to carry out the purposes laid down in the Land Policy. It needs no emphasis that the principal object of a Land policy should revolve round the protection of land rights of the indigenous people of Assam, an efficient land administration, equitable distribution of land

amongst the land less people, optimal use of land, maintaining ecological balance, and reservation of sufficient land for the community and above all, for the emerging successive generations/ posterity. In that view, the land laws and the rules made there under should also be such as will make suitable provisions for protection of the existing land surface against natural calamities or against illegal occupation of land, keeping sufficient land for VGR, PGR in reserves, protection of the Protected Belts and Blocks land, protection of the most valuable hills and forests, rivers, rivulets, streams and other water bodies. An ideal Land Policy is also to make due provisions for reserving open spaces for sports, trade centres, educational Institutes, organized markets etc so as to serve the cause of the rural infrastructures and of the rural population which constitutes 86% of the people living in rural Assam. The Committee has broadly scrutinized the existing Land Policy of 1989 and has generally commented on the changes it needs. Now, in order to facilitate implementations of the provisions in the new land policy, we suggest below the changes needed in the various laws and rules governing the administration of laws as follows:

9.2. The Assam Land and Revenue Regulation (ALRR), 1886:

9.2.1 Jurisdiction (Section 1 (2)) : In the view of the Committee, The ALRR, 1886 should, be generally made applicable in the entire state of Assam, may be with certain specified exceptions as, for instance , in Dima Hasao or Karbi Along Autonomous Districts, having regards to the socio-cultural and economic backgrounds of the these tribal people for reasons to be recorded and justified. Such exceptions, if any, should be mentioned specifically without keeping any reservation. **So, Section 1(2) should, to that extent, be suitably changed and re-defined**

9.2.2. The time has marched ahead a long distance since the enactment of the ALRR, 1886 by the British colonial rulers for promoting and furthering their imperial interests through a Divide and Rule Policy at the cost of the native people. But with the end of the colonial rule and passage of more than 130 years after the enactment of this legislation, new situation has emerged with sea changes in the socio-political and economic domains of the country/ State. The new emphasis is on serving the interests of the native land and the people. Viewed from this angle, even change in the name of the A.L.R.R., 1886 may create a psychological edge. The Committee suggests that in order to remove the psychological inhibition against the enactment passed in the colonial Rule as also to make its nomenclature fit in with the national political environment, The ALRR, 1886 may be renamed as “The Assam Administration of Land and Revenue Act”, 2018 or 2020, as the case may be.

9.2.3. Definitions (Section 3 of the ALRR, 1886) : Definition of ‘land’ has not been given in Section 3 of the ALRR, 1886 (hereinafter referred to as ‘the Regulation’), in absence of which there is room for confusion in certain peripheral issues, to dispel which “land” should be defined clearly. The Committee feels that the term ‘land’ should mean and include the land surface, anything that is firmly attached /affixed to the land surface including trees and forests or anything that the land surface holds or bears on it, and should include water/water bodies, mines and mineral. Taking a broad view, even the tops of a multi-storied building / vacuum of a space should be defined as “land”

9.2.3.1. Definition of Char: While the Regulation states that the word ‘estate’ includes Char (Section 3 (4), it does not define properly as to what constitutes “Char”, although it says that ‘any char or island thrown up in a navigable river which under the laws in force is at the disposal of the Government’.... If we were to accept the ground realities, it cannot be said that at present the Chars of Assam are at the disposal of the government, because most of the chars of Assam are under the total grip and control of

the encroaching illegal Bangladeshis where, with government presence nowhere in sight, only the writ of the Dewanis or the Matabbars runs. And, most of the Chars are without Cadastral survey. In most cases, heavy human habitation has taken place without allotment or settlement of land by the government, and the encroachers are not paying revenue nor has the Government been collecting any revenue, nor have these vast areas been assessed to land revenue. It is the Dewanis who allot land to the encroachers routinely infiltrating from across the Indo-Bangladesh international borders and collect land revenue from the illegal settlers. Where does the Government writ then flow?

The inhabitants of these chars are pre-dominantly suspected Bangladeshis and the Government have made no efforts either to detect these illegal Bangladeshis infiltrating in to Assam after 25 March, 1971 as per the Citizenship Act, as amended in 1986. Moreover, the word “navigable” used for inclusion of an area as Char has not been defined to streamline the concept as to what constitutes a water body navigable. Does it require sailing of ship or boat? In this milieu of confusions, it is necessary to define as to what constitutes “Char”, to distinguish between “temporary Char” and “permanent char” which distinction is vital both for making cadastral survey and realising land revenue due thereon, and also to define navigability of a river/ water bodies. The Bengal Alluvion and Diluvion Regulation enacted by the British administration had defined Char as “small islands in the river beds which are formed by either frequent changes of the river or by shifting of the sands which lie on beds of those rivers”. The focal point is that every year the mighty river Brahmaputra throws up huge deposits and form new Chars which are purely temporary. It will be neither safe for the settlers nor will it be conducive to the environment to settle human beings on Char as such settlements may even create obstruction to the course of the mighty Brahmaputra with its concomitant fall out of causing erosion elsewhere. So, no allotment/ settlement of land should be given in such temporary Chars. Moreover, what constitutes a permanent Char, or after passage of how many years on an average, the accumulated components of the soil of a char get solidified, and assume permanent characteristics should also be defined so that settlement of land for habitation in the temporary chars can be avoided.

9.2.3.2. Definition of “estate”: As per definition of “estate” A land, in order to be included as an estate, it should be subject to payment of revenue either immediately or prospectively and since no settlement should be given in the temporary Chars for environmental reasons or reasons of safety or security of the settlers themselves, such chars should be excluded from being defined as estate and the definition of ‘estate’ to that extent should stand modified.

9.2.4. Permanently settled estate, Revenue-free estate, a “Proprietor”: With the Assam State Acquisition of Zamindaries Act, 1951, the concept of proprietor has undergone material changes. On the other hand, a land holder has a permanent heritable and transferable light and on expiry of the fixed tenure of settlement, the right of the land holder is renewable for successive tenures. So, for all practical purposes, the distinction between a land holder and a proprietor is lost except that the rights of the proprietor are recorded in a separate Register of the Deputy Commissioner **as revenue-free estate** (Section 3(5)). Likewise, since a land holder’s right to enjoy his land is virtually permanent, there is hardly any ground either to call the owner of the permanently settled estate a ‘proprietor’ or to classify an estate as a permanently settled estate or to term such estate as revenue-free estate, which were the creations from prior to or during the British colonial administration.

So, the Committee recommends that in the interest of attaining the object of equal rights for all citizens as guaranteed by the Constitution of India, the Government of Assam (GOA) may consider whether all citizens holding land under the GOA should not be granted the same status of a ‘Land holder’ which

gives heritable and transferrable rights over the land to the holder, and also to consider whether the status of “proprietor” as defined in section 3(6) (f), a ‘revenue-free estate’ and ‘permanently settled estate’ (as defined in Section 3(5) and 3(6) © respectively) of the Regulation should not also be wiped out. If the GOA agrees to this suggestion, then Section 3(6) (h) shall have to be changed suitably.

9.2.5. The Committee recommends that Section 14 (Chapter II) relating to making rules for allotment of land for Grazing Ground/ Jhum cultivation relates to the practice of jhum cultivation by the tribal people of Assam. However, since there is a separate Chapter (Chapter X of the Regulation), to suit the needs of the tribal population, these provisions may be more appropriately made under chapter X of the Regulation.

9.2.6. Tenure of the Re-settlement of Land should be Uniform in the Entire State (Section 17-45 of the Regulation): The Khiraj Periodic Patta (KPP)s are issued for a period of 20/25 years. The tenure of the pattas and the right or title to the land expires on completion of the specified period of 20/ 25 years. With the expiry of the tenure, the Pattas become legally invalid and cannot be used, for instance, for mortgaging against bank loan or such other purposes. Instances were brought to the notice of the Committee by the stake holders of various districts that the resettlement operations in most of the districts had not been conducted since 1964 that is, during the last 45 years or so, which has caused enormous sufferings and harassment to the stake holders.

What is more serious is the fact that some people from Udalguri district of the BTAD had represented before the Committee that though they have been enjoying their lands from generations after generations, not only they, even their fathers had not seen what a Patta is. In other words, these original inhabitants have never been issued any patta in support of their being landholders. This is a grave lapse on the part of the GOA which has a statutory responsibility to manage the subject of land and conduct the settlement or resettlement operation regularly. Land gives not only individual identity and status and dignity to the holder but also a national identity, and to deprive the holders of this privilege, apart from barring the latch of the Government, is unethical, to say the least.

9.2.7. The Committee, therefore, recommends that the Government holds the re-settlement operation as a matter of course at the end of the existing lease period in the entire State choosing its convenient time for each district. The Committee also recommends that in view of the huge cost and time involved in conducting and completing the settlement operation, the tenure of all the KPPs should be uniformly increased to 30 years and further that the next re-settlement operation should be so started as to complete the process before the expiry of the tenure of the KPPs. It is a sad commentary that the settlement operation of the Guwahati Metro city had taken 14 to 15 years and yet it reportedly remained incomplete in several ways.

9.3. Deletion of Certain Provisions in the ALRR, 1886: Recommendations: There are certain provisions which were made by the British administration and have now become inapplicable or irrelevant and therefore can be done away with. For instance, the Special Waste Land Rules, the Old Assam Leasehold Grant Rule, 1854, The First Fee-Simple Rules, 1861, The Waste Land Grant Rules of 1874 etc. contained in the Introduction part have now ceased to be applicable and serves no purpose except that their reference may be relevant to find out the special benefits granted there under. These special rules were issued for granting special benefits to the white-skinned planters under the dispensation of perpetual grant of land and at especially concessional rates of revenue. As these old lease rules have ceased to be applicable, the same should be scrapped. The revenue free status lands

granted there under should be assessed to revenue under the provisions of the Assam Assessment of Revenue Free Waste Land Grants Act, 1948, if not already done.

9.3.1. Recommendation on Section 28: Section 28 exempts certain classes of land (vide subsections (a) and (b) together with its provisos from being assessed to land revenue). In the changed circumstances, the need for such exemptions and safeguards have not only outlived their utilities but also has worked against the interests of the state. The committee, therefore, recommends that these special exemptions be withdrawn by striking off these special provisions. Since as per Section 32 (I), the settlement officer (SO) shall offer settlement only to such person as may be found in possession, the contingency of not finding anyone in possession as envisaged in Sub-section (2) does not arise and, therefore, the situations described in the two sub-sections contradict each other. Moreover, the question of rejecting the offer of settlement in the present context has become unrealistic and, therefore, these subsections of Section 32 as also the entire Section 33 need to be struck off from the Regulation. In the same view, settlement referred to in Section 35 should be offered only to those who apply for the land in question and as such, Section 35 of the Regulation is considered redundant and needs to be struck off.

9.3.2. After the Settlement operation is formally closed, Khiraj Periodic Patta (KPP)s should be issued as soon thereafter, as feasible, but within a time not exceeding 2 months from the date of closure of the settlement operations. The Pattas should be issued by taking **the family as a unit**. The term “family” in this context should mean and include the husband and the wife only.

9.3.3. Withdraw the Imposition of Hoe (House) Tax in lieu of land Revenue: There is no reason as to why a tax called hoe tax levied by the Ahom Rulers and retained by the British colonial administration to carry on divide and rule policy should be retained simply because in our great democracy all citizens of India are to be treated equally and uniformly unless there are some compelling reasons which can justify such differential treatment. Moreover, it really sounds derogatory that any citizen of free India should be taxed on his head. So, Section 47 (i) and (2) (Part F) should be done away with.

9.3.4. Registration (Section 50 of the Regulation): After the estates are partitioned, and Pattas are granted individually on the basis of the family as a unit, the contingency of existing joint proprietor or joint land holder etc should not arise, though strictly speaking each of the husband and the wife of a family unit may also be termed as Joint holder of Patta. In any case, the implication of these terms does not go beyond a family. So, the terms joint proprietor and the joint land holder shall accordingly need to be substituted appropriately.

9.3.4.1. Section 50 of the Regulation requires every proprietor/ land holder to apply for registration of his or her name in respect of the land in question within 6 months of getting the land transferred to his or her name and if he fails to do so, he has been even made liable for payment of fine under Section 58 (1). While theoretically it is a wholesome provision made with a design to benefit the land holder, there are practical difficulties for the land holders to do so because, he/she might have reasons for his/ her failure to do so. In order to alleviate the sufferings of the stake holders due to not getting the records of his/ her rights indefinitely on some pretext or other, the Committee recommends that as provided in section 53 A (1), the registration should be made *suo moto* on the basis of information received from the recorder or otherwise. This should be easy with the introduction of Digitization System in preparation of the land records. And the provision for imposing fine for not taking steps for mutation of the name of the holder should be annulled.

9.3.5. Settlement of land only to Indigenous persons of Assam: The Committee recommends that settlement of land should be offered only to the indigenous persons of Assam and the foreigners or suspected foreigners should be excluded from any kind of settlement of land unless after thorough and legal investigations, their citizenship is established beyond any reasonable doubt.

9.4. Before offering settlement to the persons belonging to the business and industrial community who have taken to making huge speculative investments on land, taking it as an article for trade and minting money at the cost of real indigenous agriculturists of Assam, thorough scrutiny of their estate, the use of their existing land and the total land in their possession/ ownership should be made so as to ascertain that their land is not beyond their residential needs. If the land is more than what they need, steps should be taken to acquire the excess land beyond their requirement.

9.4.1. Ban the land Brokers/ Middleman/ Syndicate : Sale and purchase or any transfer of any kind of land by or through middlemen, brokers and; land mafia, that is, by other than the owner, who are involved in land transaction for making profit from such sale/ transfer should henceforth be totally banned and land should be declared as a non-trading asset for profit making.

9.5. Updating of Records of Rights: Under section 50 of the ALRR, 1886, every proprietor or land holder or every joint proprietor or joint land holder so holding the land by purchase of the land or every person assuming charge of any estate or every mortgagee obtaining possession of any estate of a proprietor is required to apply to the Deputy Commissioner, within six months of his getting possession of the land, for registration/ Mutation of his or her name as such holder of the land so acquired or possessed or else, under Section 58, he is liable to pay fine. Under Section 51 of the Regulation, the Deputy Commissioner is also under obligation to register the name of the possessor/ buyer, if he gets the information of the transfer of the land from any other sources. However, these provisions remain only in books; and in practice, the records of rights remain more often than not without being updated/ corrected for years together or, as it happens, even after the resettlement operations are long closed, much to the woes and sufferings of the land holders. A thorough system of inspection and monitoring of performance of the officials at all level should be introduced and enforced which will of course call for revamping the Revenue department at Secretariat, Directorate and district levels. The Committee recommends that such corrective steps be introduced at all levels of the revenue department, GOA.

9.5.1. Under Section 60 of the Regulation, the land records of are open for inspection by the stake holders subject to payment of certain prescribed fee. While it is a wholesome provision, the desired result is always hard to come by in practice as for obvious reasons including shortage of man power, degenerated work culture amongst the officials and wanton corruption amongst the custodians of the records, there are many a slip between the cup and the lip. In order, therefore, to make the desired benefits pass on to the beneficiaries, the Committee recommends that there should be a provision for punishment, on receipt of an established complaint to that end, of the delinquent officials if the revenue administration were to be streamlined.

9.6. Arrears of Land Revenue and Mode of Recovery (Chapter V, Sections 63-68). The Government knows it very well that with a substantial chunk of the land revenue remaining as arrears; the collection of land revenue leaves much to be desired. Even granting that flood, erosion, siltation of land and other crop diseases, often taking epidemic forms, lax/ negligence in collection, misappropriation of collected money by the Mauzadars or other custodians and, most importantly, lack of supervision by the circle officers contribute largely to such poor collection or default in collection of

land revenue. It is therefore, recommended that the system of land revenue collection be strengthened through strict and timely supervision, payment of incentives to the Mauzadars, increase in the Mauzadar's commission, payment there of full and timely, by making such stringent provisions in the regulation as may be considered necessary. If necessary, the GOA may get the whole matter investigated/ examined by an expert agency so as to streamline the Collection machinery and maximise the revenue collection. It is important to note that for protecting

9.6.1. Land Revenue for Agricultural and Special Cultivation (Tea) Land: It is understood that the rate of land revenue collected from the land under tea cultivation is less than that realised per bigha from the agricultural land in the neighbourhood. It is reported that in the Barak valley, while the rate of land revenue for the ordinary cultivable land is Rupees 22.00 per bigha that for the tea land is Rupees 16.00 per bigha. In fact, this sounds strange, odd and iniquitous in that while the big tea magnets minting money from the tea cultivation are enjoying special concessions, the poor peasants who are unable to meet the requirement of two square meals have been made liable for higher rates of revenue. This does not stand any logic or consideration by any account. The Committee, after considering pros and cons of the matter recommends that the land revenue payable for tea or any other special cultivation land be fixed at least 5 times that payable for ordinary cultivation land.

9.7. Uniform Method of Collection of Land Revenue in Assam: Mauzas Vs Tahsils: Incidentally, it may not be out of context to mention here that in the interest of rationalisation of the revenue administration as also attaining uniformity in the entire system of collection of land revenue in the state as a whole, neither separate classification of land as "permanently settled estate" nor an estate of land holder other than settlement holders seems to be justified, nor separate agency/ system of collection of land revenue through Mauzadar and Tahsildar, that is to say, division of land in to Mauza and Tahsils should be allowed to stay. The committee feels that, the retention of the Tahsils in the districts of Karimganj, Cachar and Hailakandi in the Barak valley and in the six districts of, Dhuburi, Goapara, Kokrajhar, Sirang, Bonhai and South Salmara (of the old Goalpara district) (except the town Mauza of the Dhuburi district) is not justified. The Committee, therefore, recommends that the Tahsils and the Tahsildars should be abolished. And while these existing Tahsils should be divided in to Mauzas, the Tahsils should be replaced by the Circles to be manned by the Officers.

9.8. Cancellation of Registration of Transfer of Land Illegally Registered: There are numerous instances where lands illegally obtained have been registered without fulfilment of the legal requirements. For example, there are hundreds of instances where lands purchased in the reserved forests or in the VGR/PGR or the Wild Life sanctuary or even the National Parks (For example, Manas National Park, Nameri National Park, Orang National Park) or in the Water Bodies (like the Deepar Beel, a Ramsar Site, Sil Sako Beel or the Borsola or Saru Sala Beel), or the hills etc where settlement is prohibited. There are many instances of the big political leaders and the big industrialists having got their land in these restricted areas registered in violation of the law and the rules and even the orders of the Supreme Court. The Committee recommends that in order to find out the truth the Government of Assam should appoint a High Level Inquiry Commission chaired by a sitting or retired Judge of the Gauhati High Court so as to bring to the light all illegalities and irregularities in making illegal settlement of land/ registration of the names of the pattadar of such land, and to suggest corrective action to be taken by the Government of Assam. The corrective action to be taken after such inquiry should also include cancellation of illegal transfer of land and taking back possession of the said illegally transferred land by the GOA for distribution amongst the landless indigenous people of Assam as also taking disciplinary action against the erring officials as may be deemed necessary.

9.9. Partition of Estates: Partition of estate entails updating of land records. Such partitions have to be made to meet the exigency of various situations, for example, sale or otherwise transfer of land or due to family partition and so on. As per section 63 of the Regulation, “land revenue payable in respect of any estate shall be payable jointly and severally by all persons who had been in possession of the estate or any part of it during portion of the agricultural year in respect of which that revenue is payable” Thus, if any of the joint pattadars of the holding in question does not pay the land revenue due, thereon, any of the joint holders shall be liable to pay the full revenue of the holding. The responsibility for payment of the full revenue of the holding is joint and several. That is to say, that if any of them fails to pay his share or the full revenue remains unpaid, the whole plot included in the dag and covering the shares of the entire joint –pattadars shall be put to auction. This means that for one person’s default another would be punished which is unfair. It is because of this unfair aspect of the system, perfect partition of an estate and updating of records, that is, correction of records in the *Jamabandi* register etc is a must.

The Committee is pained to note that updating of records which is a statutory necessity is not complied with at the concerned level. There are no credible or plausible reasons for not correcting/ updating the records of rights in the name of the stakeholders as required by law. The only factor to which such callous attitude could be ascribed is the bureaucratic corruption, negligence of duties and lack of commitment of the political leaders- all of which need to be obliterated with an iron hand. The names of the land holders or settlement holders, as the case may be, remain not mutated for years and the changes in the status of the transferor or the transferee are not recorded in the Jamabandi Register. Not only the resettlement operations are not conducted for more than half a century, even the updating of records in time cannot be expected According to a reliable source, though the resettlement operation of Guwahati Metro city was completed after about 15 years or so of its conducting, at least 50% of the Pattas remained as ‘Ejmali’ (joint). Again, there were as many as 345 Pattadars clubbed together in a single Khiraj Patta (K.P.Patta No.248, Noonmati Revenue Village of Ulubari Mauza). What is the utility of such a settlement operation if these basic works relating to pattadar’s right remains un-recorded or the record of right remains un-delivered for years? If this is the way the Government department functions and the revenue department is discharging its responsibilities to the people, what can be expected by the people? The Committee is anguished that a huge Department is run so callously running at the expense of the tax payers’ money. And it is unexpected that it should have neglected the cause of the people so badly. The Committee, therefore, recommends that the Government of Assam revamps/ reorganizes the department, remoulds the work culture of the officers and employees, and the political leadership discharges its commitment to the people to serve whom the government has been lodged in power.

9.10. Imperfect Partition of Estate Should be done away with: Under section 96 of the Regulation, partition of an estate may be either “perfect” or “imperfect”. According to this section, “perfect partition means the division of a revenue paying estate in to two or more such estates, each separately liable for revenue assessed thereon.” “Imperfect partition” means the division of a revenue paying estate in to two or more portions jointly liable for the revenue assessed on the entire estate.” It would be seen that as in the case of large holding held under the Joint patta, the problem of joint and several responsibility for payment of the full revenue for the entire holding shall remain even in the case of imperfect partition of estate as well. The condition of rejecting perfect partition on the ground of the resultant revenue falling below a minimum does not quite neutralize the inconveniences of imperfect partition or gives the advantages of the perfect partition. In other words, one is not the substitute for the other. It is the

convenience of the land/patta holder and that of the collection of land revenue smoothly that should guide the provisions to be made in the law. Therefore, the Committee recommends that all partitions should be “perfect”, and there is no role for imperfect partition to play which the Britishers had introduced to suit the conveniences of the time, apart from the fact that it neither helps the land holder nor the Government in any way and should therefore, stand abolished.

9.11. Digitization of Revenue Records: The Committee has taken the opportunity to bring to the notice of the Government of Assam, the various latches on the part of the revenue officials or of the loopholes in the law(s) in the matter of timely preparation and updating of the records of rights of the individual stake holders, for whatever reasons it might be. The Committee also feel that while the laws and the rules made there under shall have to be so amended as to alleviate the hardships faced by the stakeholders in timely preparation and delivery of their records of rights timely and even automatically, it feels that the principal area of hardships needs to be identified and the hardships and harassments caused to the stake holder put to an end forthwith.

The Committee, therefore, recommends, as of first priority, that the entire process of updating the records of rights of individuals and private organizations be done through digitization/ on line wherever such facilities are there and the updated records delivered *suomoto* / automatically, to the stake holders. In addition, the Committee feels that the Department of Revenue shall have to be revamped, restructured and reformed in order to address the outstanding grievances of the stake holders by taking holistic measures, which the Committee proposes to spell out in the concluding chapter. Therefore, the Regulation should be so amended as to provide for the adoption of the most modern and scientific process of computerisation of the records for putting an end to the age old hardships and harassments meted out to the public/ stakeholders.

9.12. Justification for Discontinuance of Annual Pattas: According to the provisions of section 11 of the Regulation, “ a settlement holder other than a land holder shall have no rights in the land held by him beyond such as are expressed in his settlement lease”. Rule 2© of the settlement Rules also defines an annual lease similarly. Such leases are generally for one year though it may, subject to fulfillment of certain conditions, continue beyond one year. This lease is known as annual lease and the document granted to the holder is called Annual patta. An annual lease confers no right of transfer or of subletting. Even the right of inheritance is limited to the year of issue. He has only the right of user for the year of issue. It shall be liable to cancellation for any transfer or subletting even during the year of issue. However, the State Government may waive the right to cancel the lease in those cases in which the land is mortgaged to the government or to a state-sponsored co-operative society for getting loan or loan from Government Nationalized Bank as relaxed by the GOA vide its Circular No. RSS.349/ 81/ 3. Dated 18 August 1981.

The question is, the grant of Annual Patta is rather a stop gap arrangement which was made to meet certain special situations like, for example, reclamation of the marshy or jungle-infested land or even to give relief to flood or erosion-affected people of which the latter contingency is still there. The Annual lease can be converted in to periodic subject to fulfillment of certain conditions laid down under Rule 105 of the Assam Land Records Manual as has been suggested in chapter 3 vide relevant Para. Even so, since once an Annual patta is granted, the grant of Khiraj periodic patta (KPP) gets receded in to the background and the holder has to run from pillar to post for getting the KPP, the Government may reconsider, whether there is still any justification for continuance of this lease and instead to decide,

whether, KPP should not be granted straightaway after the land is allotted to meet the exigency of an emergent situation.

9.13. Changes Suggested in Chapter X of the Regulation: The Protected Belts and Blocks were created in order to protect the lands of the simple and socio-economically backward classes of people which were vulnerable to massive encroachment by the peasants from the then East Bengal. The Committee has discussed in details the background in which these Belts and blocks had to be created by adding a new Chapter to the ALRR, 1886 named as Chapter X. The need for protection arose particularly to check the unassailable assault on the lands of these simple and shy people who were unable to protect their interests due to their general lack of socio-educational progress. The encroachment had even received Government patronization when for instance.

9.13.1. We have already analyzed and explained in details the reasons for which the protected Belts and Blocks have failed to protect the lands of the eligible classes of people living there, in Chapter 5. Here, we would like to re-iterate that the loopholes in the provisions of the law should be plugged as suggested and more importantly, the positive provisions of the law should be strictly enforced. It is the non-enforcement of the laws which has contributed to the failure to protect the interests of the protected classes of people and their land reducing the Bodo / Tribal people to a microscopic minority with just 29% of the total population of the present BTAD region. We have analyzed the reasons for the ills of the system and recommended remedial measures including changes needed in the provisions of law which needs to be implemented./

9.14. Registration of illegal/ Benami Sale of Tribal Land to Non-Tribal is going on Unchecked: After the commencement of the Assam Land and Revenue Regulation (Amendment) Act, 1964, transfer of land in the protected Belts/Blocks to non-eligible class of people in any form in contravention of the provisions as amended is banned and such transfer shall not be registered under the Indian Registration Act, 1908. Sadly, however, in spite of such wholesome legal/ restraining provisions, registration of sale or other kind of transfers of land in the protected Belts and Blocks is routinely and methodically going on. It is reported that the general *modus operandi* of causing such illegal transactions is through the mechanism of **what is called Power of Attorney** or, as it happens, such transactions take place as '*Benami*'. The Government of Assam has a duty here to research in to and identify the loopholes that facilitate perpetration of these evil practices of nullifying the good provisions of law and design corrective measures that would plug the loopholes facilitating such illegal transfer of land in violation of the legal provisions. For this, the enforcement machinery shall have to be strengthened and activated and the Registration Branch and the settlement branch of the deputy Commissioner's establishment have to be integrated/ coordinated so that they act in unison in all matters of land transfer/ registration.

9.15. All Land Matters in the Belts and Blocks Should be Governed only by the Rules of Chapter X Without any Exception : Under section 162 (1), the State Government may, by notification in the official gazette, direct that the provisions of Chapter-X shall apply to the areas constituted into Belts and Blocks under provisions of Section 61. However, it also says in the same breath that certain matters shall "so far as possible, be governed by the provisions of this Chapter and the rules made there under. Where this is not possible, the Deputy Commissioner shall be guided by the spirit of the provisions of the forgoing chapters of the Regulation and the rules made there under."

These provisions keep the way open for relaxation of the rules normally applicable to the land matters of the protected Belts and Blocks, much to the detriment to the land rights of the indigenous people. The provision for clubbing together the tiger and the goat (i.e., the land grabbers and the victims) to be in the same house can be said to have presented the prey to his mouth, thereby defeating the very purpose of creating the Belts and the Blocks. So, unfortunately though, the Protected Belts and Blocks were very much a stillborn child in that it was dead even as it was born by reason of the fact that the land-grabbing immigrant Muslims living on that date in the belt/ Blocks was declare eligible class of people to live there under the Notification No. RD./69/46/19 dated 5th December, 1947. It was fully known to the Government that the Line System, the predecessor of the Protected Belts and Blocks, had to be abandoned and the latter protected Belts/ Blocks had to be created, just to circumvent the defects of the line system. The Committee recommends even at the cost of repetition that the Government may re-examine and reconsider the matter accordingly and if in the interest of re-enforcing the safety and security of the protected class of people, Section 162(1) has to be suitably amended so as to exclude those against whose land grabbing had to be created the protected belt and Blocks, GOA should have no hesitation to do so..

9.16. Punishment for Violations of the Provisions to be more deterrent: The Committee recommends that the punishment for violation of these provisions whether as to illegal transfer of land from tribal/protected class of people to non-tribal/non-eligible class of people or as to encroachment on the land of these Belts and Blocks or as to re-encroachment of the land from whom he was evicted be made more severe and deterrent. Thus for illegal transfer of land, punishment of both the transferor or the transferee of land as provided in section 164(B) of the Regulation should be increased to two years imprisonment and also the offenders should be liable to a fine of Rs.50,000.00. For re-encroachment by anyone who was once evicted from the land he encroached upon, the punishment should be even more deterrent.

9.17. The BAC Scheme under the Bodoland Autonomous Council Act, 1993: The Bodoland Autonomous Council (BAC) was established comprising the specified contiguous geographical areas under the Bodoland Autonomous Council Act, 1993 within the State of Assam to give the Council maximum autonomy within the framework of the Constitution of India, for social, economic, educational, ethnic and cultural advancement of the Bodo people residing therein. The subjects allotted to be administered by the BAC as defined under Section 24 of the Act are 38 in number and includes "Land, Land revenue and Revenue" against item No. 26. However, the Deputy Commissioners of the BAC Districts are also District Collectors and after the creation of the BAC and transfer of land, land, the residuary powers of the District Collectors/ Deputy Commissioners do not seem to have been defined anywhere. During the visit of the Committee to the districts within the BAC, the Committee had the impression and when asked, a few of the Deputy Commissioners had expressed candidly, that they were in the dark of these matters, particularly as to their duties and responsibilities in these areas. The Committee therefore, recommends that the Government draws up a Scheme clearly dividing the respective powers between the BAC and the Deputy Commissioners/ his establishment. This should have been the most primary aspect of the division of powers between the BAC and the DC and in absence of such clear division, incalculable harm both to the people and the administration has been done, which must be ended forthwith.

9.18. Make The Deputy Commissioners Functional in the BAC: As per List 2 (The State List, Seventh Schedule, Article 246 of the Constitution of India) land is a State subject and as the BAC essentially functions within the Constitutional framework and the State, the Deputy Commissioners / Collectors have statutory powers, duties and responsibilities under the ALRR, 1886 and all other land laws governing the various aspects of land and General Administration. In absence of any definition of the duties and responsibilities of the Deputy Commissioners/ District Collectors in the Scheme of creation of the BAC, glaring confusion, uncertainties and lack of understanding of mutual responsibilities of the DCs vis-a-vis the BAC reigns supreme. This, in the view of the Committee, has caused colossal wastage of manpower resources and has also done incalculable harms to the smooth and efficient running of the affairs of the BAC. Viewed in this perspective, the hardships and harassments suffered by the common people, instead of getting mitigated with the creation of the new set up of Autonomous Council, continue with the same intensity, vehemence and ferocity as before, thereby nullifying the benefits expected to accrue from the new set-up of autonomous administration. All that the creation of the BAC has done was principally to assuage the lust for power of the leaders and made them the principal beneficiaries. The Committee recommends that the services of the Deputy Commissioners posted in the BAC areas, enriched as they are with vast administrative and revenue experiences, be defined, earmarked and so utilized as to derive optimal benefits for the people through efficient administration by fully utilizing their valuable services and bring relief to the suffering common people of the BAC.

9.18.1. The Committee suggests that adequate power and responsibilities have to be assigned to the institution of the Deputy Commissioner/ District Collector, invested with appropriate powers so that he/she can discharge his/ her responsibilities in his/ her own defined domain without interfering or being interfered, in any manner, with the functioning of the BAC. The ground reality is that without the help and support of the establishment of Deputy Commissioner/ District Collector, the BAC is bound to be handicapped in running the affairs of the BAC smoothly and efficiently and rendering the utmost good to the people as was the cherished desire behind the creation of the BAC.

9.19. Lack of Enforcement Measure to clear all lands under Encroachment in the State: Over the post-independence decades and till today, there have been massive encroachments on all classes of lands included in the protected Belts and Blocks. Sadly, this has happened simply because the powers that be have never been able to gather the political wisdom and courage to cause eviction of the encroachers though there are adequate provisions for eviction of the unauthorized/ undeserving occupants forthwith. Essentially such inaction on the part of the authorities both of the GOA and the BAC reflect lack of the sense of responsibility and patriotism. Moreover, it is their legal and bounden duty to protect the land from the invasion by the unauthorized persons, here in this case, mostly by the illegal Bangladeshis. One reason is certainly there for making an excuse which is that the BAC authorities are not armed with adequate manpower to check and remove setting up illegal village overnight by land-hungry wild gangs of illegal Bangladeshis mostly in the very nose of the police authorities who are deadly afraid of showing their face there against these organized gangs of encroachers. The Government of Assam should realize that this is a grave danger to the very identity of the indigenous people of Assam, let alone protection of their land rights and it must be stopped forthwith by creating a Special Armed Task Force at appropriate centres, and armed with sufficient arms and ammunitions under a separate Directorate as discussed/ recommended detailed in appropriate chapters.

9.20. Remove the Illegal villages set up Overnight by the Illegal Bangladeshi Armed Gangs:

During the past two/three decades or so, there has emerged a new devastating trend of setting up overnight illegal villages in government waste land or char land or VGR or any vacant space. In fact, where ever such vacant lands are noticed, the trend is that hundreds of illegal Bangladeshis armed with dangerous weapons and building materials, pounce on the land just like the vultures do on the corpse and complete the construction of a cluster of thatched houses with plantation of banana and other trees on the vacant spaces so as to give a look that the village was old and was already existing there. When the local indigenous people attempt to resist, they meet with grave assaults and threat to their life. Since the attackers come in hundreds armed with dangerous weapons, even the local police are afraid of showing their faces. This way every day new illegal villages have started springing up, much to the threat of the life and identity of the indigenous people of Assam, let alone their land rights. The Government and the concerned Autonomous Councils must devise concerted efforts and float appropriate schemes not only to prevent such organized mischief but also to demolish the illegal villages and clear the space of the illegal villages. Since these villages have no legal sanctity, these need to be demolished with a strong hand, if Assam is to be saved from the clutch of these swarms of land – encroachers. We explain below, what constitutes a village proper:

9.20.1. What Constitutes a ‘Village’? It is to be remembered that these illegal so called villages have no sanctity and identity because these are not villages as conceived under Section 2 of the Assam Land Revenue Re-Assessment Act, 1936 which we recite as follows: “2(ii) ‘Village means, subject to any general or special orders of the [State Government] the area surveyed and recorded in any survey made or under the authority of the Government as a distinct and separate village”. It is a public knowledge that the thousands of illegal Bangladeshis armed with dangerous ammunition and arms set up overnight villages in the open char areas or in VGRs and PGRs or in Protected Belts in organised gangs and nobody dare to visit these village and even make any inquiry, let alone evict/ demolish them. The Committee recommends that a thorough survey of all such illegal villages all throughout the State be conducted and all such illegal villages demolished. Further, the so called Gaonburahs and the certificates of NRC issued by these so-called Gaonburhas of these illegal villages be de-recognised.

9.21. Reasons for Slow Progress of the Land Reforms Laws in General: Land reforms measures comprise the whole spectrum of actions taken by the Government with a design to remedy the evils which had crept in to the system of administration of land and enjoyment of the land rights by the stakeholders over the ages , and include such vital matters as allotment or settlement of land, nature and quality of rights enjoyed by the stakeholders, establishing direct relationships of the stakeholders with the Government, security of the land tenure, abolition of intermediaries, preventing concentration of land in a few hands, improving the scope for enhanced productivity of land ,and above all, enforcement of the legal measures/ reforms envisaged in the enacted laws and distribution of surplus lands amongst the landless indigenous people of Assam.

9.21.1. Nature and background of The Reforms Legislation: First Agrarian Reforms Committee:

Soon after independence, the native Government understood the importance of attaining land and agrarian reforms, if only India were to be re-built and taken along a new road of progress and welfare. A decision was taken at the highest political level to investigate in to the whole gamut of rural/ agrarian problems and decided to appoint a Agrarian Reforms Committee chaired by Shri J.C. Kumarappa. The Committee inter alia examined the question of land reforms and submitted its report in 1949. The recommendations made by the Committee were as follows: (i) Elimination of the scope of exploitation of

one class by another (ii) Inoculate in the mind of the farmers the sense of self-assertion (iii) Abolition of intermediaries between the State and the till and (iv) Prohibition of sub-letting of land except in the case of widows, minors and other disabled persons.

In this context, the observations made by the Task Force on Agrarian relations constituted by the Planning Commission had resulted in landmark decision. The committee had gone in to all allied matters connected with agrarian reforms and submitted its report in February, 1972 which was also incorporated in the Report of the National Commission on Agriculture, 1976. A few extracts of the report may be gainfully quoted herein below :

“66.5.21....The task force observed that ‘ the laws of the abolition of intermediary tenures have been implemented fairly efficiently while, in the fields of tenancy reforms and ceiling in holdings, legislation has fallen short of proclaimed policy and implementation of the enacted laws have been tardy and inefficient’ (page6)”

“66.5.22. The task force attributed the poor performance of land reforms mainly to the lack of political will. It said, “with resolute and unambiguous political will, all the other shortcomings and difficulties could have been overcome; in absence of such will even minor obstacles become formidable roadblocks in the path of Indian land reforms. Considering the character of political power structure it was only natural that the required political will was not forthcoming” (page 7)”

“66.5.23. Emphasising the absence of adequate pressure from below, it observed “Except in a few scattered and localized pockets, the poor peasants and agricultural workers are passive, unorganized and inarticulate”. The moot point that needs to be realized clearly is that the peasants are not only illiterate and ignorant but also are unorganized, as reasoned by the Task Force, that in spite of their un-redressed sufferings inherent in the agrarian system, they are helpless to enforce remedy of their grievances. Stressing, therefore, on the low priority given to land reforms by the revenue administration, The Task Force said, “Traditionally, high priority is given to maintenance of public order, collection of land revenue and other regulatory functions. Land reform, therefore, does not get the undivided attention it needs”.

9.21.2. The Task Force also mentioned frequent interference by the Courts as one of the major factors in causing obstruction and delay in reforming land matters. The other factors emphasized by the task Force in this context were (i) absence of correct and updated land records (ii) lack of financial support for land reforms programmes (iii) weakness and irregularities of the reporting system and of evaluation and (iv) lack of proper co-ordination and guidance from the Central Government as to formulation of uniform laws for the country as a whole and their effective and quick”. Assam is no exception in that whatever loopholes in the laws like the State Acquisition of Zaminadary Act of 1951 or the Tenancy Act of 1971 or the Fixation of Ceiling on Land holdings Act, 1956 are there, the main obstacles to giving relief to the tillers of the land are the half-hearted efforts by the Government, particularly by the powerful

bureaucrats who are generally inclined to be under some mysterious influence of the powerful landlords vis-à-vis the poor tillers of the land. As The Task Force said, **“the attitude of the bureaucracy towards the implementation of land reforms is generally lukewarm and often apathetic (Para66.5.24). It is in this background that “the man behind the plough continued”, to quote the Dwerah Commission “the life of a serf” (Page 11 of the Report)**

9.22. Various Reforms Acts and The Purpose: The Government of Assam in conformity with the National Policy on Land Reforms adopted and extensive programme on land reforms measures in the State and enacted as many as thirteen legislations with that end and a few of the reform legislation includes the following :

- (i) The Assam Adhiars Protection and Regulation Act, 1948
- (ii) The Assam Management of Estates Act, 1949
- (iii) The Assam Assessment of Revenue Free Waste Land Grants Act, 1948
- (iv) The Assam Land (Requisition and Acquisition) Act, 1948
- (v) The Assam State Acquisition of Zamindaries Act, 1951
- (vii) The Assam Fixation of Ceiling on Land Holdings Act, 1956
- (viii) The Assam State Acquisition of Lands belonging to Religious or Charitable Institution of Public Nature Act, 1959
- (ix) Assam (Temporarily Settled Areas) Tenancy Act, 1971
- (x) The Assam Gramdan Act, 1961

9.22.1. Special Features of a Few Land Reforms Acts: The main purpose of enacting these legislations has been the equitable distribution of land amongst the landless persons. This was sought to be achieved by putting a ceiling on the maximum land holdings by the big land owners like Zamindars,, giving right over lands to the tenants, the actual tillers of the land under the proprietor, as also to give protection to the Adhiars/tenants against exploitation by the land lord . Thus while the object of passing the legislation at serial no. (i) above was to regulate the share of the crop rent payable by the cultivator to the land lord, that of the Assam Land (Requisition and Acquisition) Act, 1948 was to provide for requisition and acquisition of surplus waste lands of the grant holders to provide land to the landless, flood affected or displaced persons or to co-operative societies formed for the purpose of cultivation. Likewise, the object of the Assam State Acquisition of Zamindaries Act, 1951 was the abolition of Zamindaries in the permanently settled areas of the State on payment of compensation to the owners. These reformatory laws were also enacted with a view to remove the intermediaries and bring the tenants directly under the State and thus to give them better rights and privileges over the land under their occupation. One of the most important legislations which was enacted to confer permanent heritable and transferable rights on the tenants was the Assam (Temporarily Settled Areas) Tenancy Act, 1971. Similarly, the Assam Fixation of Ceiling on Land Holdings Act, 1956 aimed at fixing limit on agricultural holdings of a person at 150 bighas and of acquiring of surplus land by the State for distribution of the same to the landless and other actual cultivators. This Act indirectly removed the petty intermediaries and aimed also at bringing the tenants into the direct contact with the Government. The Assam State Acquisition of Lands belonging to Religious or Charitable Institution of Public Nature Act, 1959 was another legislation enacted with the aims of acquiring the excess or unused land by these

religious institutions for giving better rights to the occupiers of the land while leaving reasonable area for the maintenance and upkeep of these institutions. Thus, the main ideas of the reforms legislations is to (i) prevent concentration of land in a few hands (ii) to give land to the landless persons from out of the land thus made available and end exploitation, harassment and also give better treatment and security to their tenure (iii) to protect the interests of the tenants cultivating the lands under the land lord and (iv) to give better title with better security and assured tenure to the actual tillers of the land. Thus the object of these reforms measures was good.

However, there is a big gap between the object/ targets and the achievements made during the long periods the reforms measures were adopted. The lack of political will, sincere efforts for uplifting the socio-economically backward class of people of the country, political clout and the monetary influence of the rich, the illiteracy and ignorance of the down trodden and the deprived class of people in the lowest rung of the society and above all, the invincible monster of corruption have closed the way for attaining these great goals. The progress has been tardy, the commitment of those in power has been corrosive and the cries of the deprived have been marred and muted in the roars of the tsunami. A damp picture of the achievement under each of these legislations in regard to total land acquired, land distributed amongst the real needy and landless persons, protection of their rights and tenure is bound to blow a whistle that sings the song of despondency. Below are given a few highlights:

9.22.1.1. Assam Fixation of Ceiling on Land Holdings act, 1956: The Committee has not been furnished with any up to date data as to how much Ceiling surplus land has been acquired by the government so far since its inception, and how much land has been settled with the landless people and the number of landless indigenous people of Assam at present. However, it is learnt from the representative of the Government of Assam in the Revenue Department that the list of Landless person in Assam has not been prepared. In fact, this is the basic record that must be prepared before the reform legislation can be translated in to action. If the very list is non-existent, it unbars the hidden truth of the Government of Assam's lack of seriousness in implementing the provisions of these legislations. The Committee recommends that the Government opens a Special cell in the Secretariat of the Revenue Department to monitor the functioning of the Director of Land Requisition, Acquisition and Reforms to ensure that taking over of the excess land under the Act is completed, a full list of landless persons of Assam and the total land distributed to the landless persons is prepared up to date by introducing the Digitization process and is updated from time to time and the process is completed once and for all within December, 2020.

9.22.1.2. Progress of Reforms under Assam Fixation of Ceiling on Land Holdings Act, 1956: The provisions of this Act apply only to the agricultural land. Section 3 (f) defines land thus: "land" means land which is or may be utilized for agricultural purpose or purposes subservient thereto, and includes the sites of buildings appurtenant to such land and includes land which is or may be utilized for quarrying stones". So, it does not apply to urban land. And after the repeal of The Urban Land (Ceiling and Regulation) Act, 1976, presently there is no limit to holding urban land. In fact, this loophole has encouraged the moneyed/ trading and industrial class of people to purchase/ hold and amass land creating a new class of urban Zamindars who invest money in land for speculative purposes for making big money. Land is a fixed and non-renewable asset gifted by Nature and if land is allowed to be bought, sold and concentrated in a few industrial or trading magnates flooded with money, the future generations of the indigenous people of Assam would be deprived of holding any land at all-a situation that is fraught with very disastrous consequences. This dangerous trend of passing big lands in to the hands of the industrial and business magnets have already been set in motion in most of the

towns/cities of Assam which has been protested with great vehemence in Guwahati and Greater Guwahati areas. And disastrously enough, the GOA had brought 116 new villages within the peripheries of greater Guwahati vide its Notification No. RSR.21/59/126 dated 1.10.1966, which have now become urban land beyond the control of the Assam Fixation of Ceiling on Land Holdings Act of 1956. It is behind this background of the legal loophole that the land grabbing trading community has started purchasing land in a big way not only in Guwahati but in other cities and towns of Assam as well. If this legal loophole is not stopped forthwith by making some alternative legal provisions to prevent concentration of town land in a few hands, then the indigenous/ people of Assam are bound to be reduced in the near future to a landless class of people and lose their identity to become foreigners in their own homeland.

9.22.1.3. A Case for Reduction of the Present Land Ceiling: It is important to note that the ceiling on land permitted to be held by the Land owner has been progressively reduced at least on two occasions from the initial 150 bighas to 75 bighas in 1970 and to 50 bighas in 1976. Since then several decades have passed off and while in the interim period has increased in geometrical progression the supply of land has been progressively decreasing and growing scarcer that is, the availability of land dwindling proportionately. In order to keep pace with the changing situation and also to take cognizance of the growing intensity of the need for preserving some percentage of land for the emerging generation, there is need for reducing the ceiling from 50 bighas to say, 30 bighas. The Committee recommends that the Government of Assam reconsiders the matter and takes a decision if the upper ceiling of land should be reduced as recommended by the Committee.

9.22.1.4. Farmer Educative Programmes Need to be launched: It is also important to note that due to encircling illiteracy, relative poverty and ignorance of the peasants in general, most of them are in the dark of many of the government's beneficiary schemes. As a result, the benefits designed to pass on to targeted groups do not reach them and it is mostly that these benefits are siphoned off by middlemen playing the role of sharks. The committee feels and recommends that the Department of Agriculture and Revenue jointly moot an educative programme to enlighten the poor peasants about the benefits available to them under various Central and state government Schemes.

9.22.1.5. Exemption of Orchard from Operation of the Provisions of the Ceiling Act: Under section 4 of the Act, no person shall be entitled to hold as owner or tenant or mortgagee in possession land in excess of the limit of 50 bighas in the aggregate and this limit of 50 bighas shall be applicable to the aggregate of the land held individually by the members of a family etc...However, an exception has been made in case of an ORCHARD land in that on the basis of the actual area of the orchard additional 4 bighas are allowed to be retained. However, the Act does not define as to what constitutes an orchard land. The committee considered the matter with some insight and found no reason as to why this exemption should be considered necessary. In this view, either the purpose of making the exemption should be explained or this special provision should be withdrawn.

9.22.1.6. The Exemption of Tea from Operation of the Ceiling Act: Under sub-section 2 of section 4 again, the Ceiling Act is not applicable in case of special cultivation while it has left undefined as to what cultivations constitutes special cultivation under the Ceiling Act. On the other hand it says that in case of special cultivation of tea, land may be retained beyond the ceiling limit applicable for ordinary cultivation up to the area which is on actual cultivation. It means that even if a tea company has plantation over 5000 bighas of land, the Ceiling act shall not be applicable in such cases. The Committee feels that land is not such a commodity that it can be allotted /settled with no upward limits. It

is a scarce gift of Nature and beyond human capacity to increase its supply of even an inch of it. What is important is that the tea gardens should be allowed to hold land up to a limit and in case of tea or any special; cultivation to a level that constitutes an economic holding in relation to a particular tea garden. The government may re-examine this aspect seriously and may determine, based on relevant data, as to what constitutes an economic holding for a tea garden. The provision of allowing retaining whatever land is under the actual cultivation is bound to prove a unwarranted liability. Secondly, the uncultivated/ vacant land and the encroached land must be taken over by the GOA under the well settled legal provisions/Rules. The Government must therefore; conduct a thorough enquiry by a high level Committee to go in to the question of excess/ surplus land held by the different tea gardens and arrange to take back the surplus land for distribution amongst the landless indigenous people.

9.22.1.7. A Limit to Holding of Town land is Necessary: The Committee finds that after repeal of the Urban Land Ceiling Act, 1976, a special class of moneyed people belonging to trading and industrial community has started buying huge plots of land in the towns and cities of Assam including the metro city of Guwahati such that these classes have used the priceless city/town land as an article for making speculative investments and minting money, much to the detriment of the land security of indigenous people of Assam, most of whom are without a even roof over their head for want of land. This ominous trend in garnering lands by the moneyed class of outsiders by depriving the indigenous people of threatens the indigenous people to be reduced to a landless class of people. In other words, the sons of the soil would be reduced to be foreigners at their own home.

The Committee recommends that GOA makes some legal provisions to fix some kind of limit to holding of town land by an individual or an organization. The Committee suggests that (i) the word 'land' in this Act be redefined to include urban land as well (ii) The exceptions, that is exemption, from operation of the provisions of this Act made vide Section 2 (2) (a) in respect of "lands held and utilized for special cultivation of tea and purposes ancillary thereto" and " land held by a mill, or a workshop, as the case may be, for the purposes of the expansion of the mill, factory or workshop or for ancillary purposes of the mill, factory or workshop such as setting up of schools, dispensaries and roads but not for any other purposes" as provided in section 2(b) should be re-examined. In particular the authority to retain vacant land within the boundaries of the tea garden is a loophole left for the tea gardens under explanation below the proviso to Section (2) of the Act should be done away with and (x) made to vacate the lands within the boundaries of the tea garden and (xi) The 50 Bighas of land allowed for bamboobari should be suitably amended as otherwise, it would go against the principle and spirit of the Fixation of Land Ceiling Act, 1956.

9.22.2. Assam (Temporarily Settled Areas) Tenancy Act, 1971: Right of Transfer of Land by a Tenant: (i) The right of transfer of land by an occupancy tenant only to an agriculturist has been allowed. However, no minimum period for causing such transfer has been prescribed. The Committee feels and recommends that cogent reasons necessary for such transfer of agricultural land should be adduced by the occupancy tenant but in no case the transfer should be allowed unless at least 10 years of his occupancy. In case, the land in question is an agricultural land, then transfer, if allowed, should be only to an agriculturist. There should be created separate industrial Growth Centres or Trade centres for development of trade and industry in the state. Likewise, such reserved open spaces should be created for sport and educational complexes all throughout the state in strategic centres. (ii) It is almost a public knowledge that there are many cases where the erstwhile land lords hold sway over their former illiterate, ignorant and simple tenant and instead of allowing the legal process to take its normal course, that is acquire the land right under his prior occupation on payment of 50 times the revenue of the land,

what the land lords do is that taking advantage of the tenants' ignorance the erstwhile landlords exploits tenant and what he does is that he pays some compensation to the tenant in lieu of surrendering his right/ title over the land and sells the land to others at much higher prices. It needs no mention that this is practised in collusion and connivance of the revenue officials who opt to be hand in glove with the former landlord for a handsome consideration and becomes a cog in the wheel of obstructing the legal course. This is the most injurious fallout of the Governments' half –hearted efforts in management of the administration of land.

9.23. The Guwahati Water Bodies (Preservation and Conservation) Act, 2008: The Guwahati Water bodies (Preservation and Conservation) Act, 2008 was passed for preservation, conservation and maintenance of the Water bodies and to develop the water bodies in to natural water reservoir and convert in to eco-tourism recreation centres to suit the ecological balance within the jurisdiction of the Guwahati Metropolitan Development Authority and to protect the water bodies from the encroachers and damages caused by various agencies. The water bodies to be preserved, protected, maintained and developed into eco-tourism centres were specified in schedules I, II, III and IV, whereupon no person shall (i) undertake any activities including the filling up of water bodies which may cause damage or reduce the size of the water bodies; (ii) construct or erect any structure in the water bodies; (iii) dump or throw solid waste or garbage in the water bodies; (iv) extend or reinforce or any building standing upon the water bodies; (v) carry out any kind of business except fish curing, aqua culture, conservation measure and flood control measures, that too with the specific previous permission of the Competent Authority. Under section 4 of the Act, any one violating any of these provisions, shall commit an offence which shall be punishable with imprisonment of a term which may extend to three years or with fine which may extend to fifty thousand rupees or with both. Under Section 9 of the Act, the government may make rules for carrying out the purposes of the Act.

Though belatedly enacted, it is one of the most refreshing enactments made particularly in the face of wanton and undeterred encroachments on the most charming water bodies spreading in and around the Metro city of Guwahati. In fact, Guwahati, the gateway to the North Eastern India, is a sprawling store hose of natural beauty, charms and treasures. And with proper protection, preservation and implementation of modern beautification schemes, it could be uplifted to be a unique and unending treasure trove of natural beauty and charms to excel all the modern cities of the world. Dotted with evergreen hills and forests and bathed in the tossing water of the mighty Brahmaputra flowing just through its heart, Guwahati could steal a march over all other Metro-cities of India if it is remodelled and turned in to one of the most charming and cherished cities of the world .

However, just as all that glitters is not gold, so also, mere passing a law for its preservation, protection and development does not *ipso facto* make it so. It is nearly a decade since the Act to preserve and protect the water bodies in and around Greater Guwahati was passed but on the ground, there is not even an iota of trace to vouch for action envisioned to be taken. In the result, it has become mere eyewash- a farce good enough to hoodwink the voting public. The wanton encroachment over the past decades are going on un-relented, the multi-storeyed concrete buildings continue to emerge on the very bosom of the water bodies thereby precipitating their extinction by the political bigwigs and the trading and industrial tycoons in the very nose of the forest, revenue and police authorities and all of them are in deep day-slumber to make the way for the powerful encroachers. It is a rare good that has come. It also appears that no rules for carrying out the purposes of the Act have so far been made so far. But the most important aspect is the lack of initiative to enforce the law and protect the priceless water bodies. Such callous conduct of the Government authorities can be explained by the profound lack of political

will, the active or tacit connivance of the powerful and corrupt bureaucracy with the land-grabbers and understandably, they keep their eyes and ears closed.

Recommendation: (i) If the unique, priceless water bodies of Guwahati are to be saved and developed, then all kinds of encroachments on all the water bodies must be removed through a time bound package programme chalked out by a High Level Co-ordinated Expert Committee involving all the concerned departments of the government of Assam like the Forest, Revenue, Guwahati Development Department, Water Resources etc departments for giving expert advice for carrying out the purposes of the Act. The Committee for Protection of Land Right of the Indigenous people of Assam also suggests / recommends that a High Level Execution of Protection and Development of Water Bodies of greater Guwahati and the adjoining regions be set up to implement the Schemes of protection and development of the water Bodies as also their expansion / beautification supported by a High Level Task Force with adequate armed manpower. A Monitoring Cell should also be set up in the Revenue department to monitor the progress of protection and development works and report on the delinquent officials directly or indirectly conniving at any violation of the law with an offender

(ii) The Committee further recommends that the definition of the term "Water Bodies" should also include the catchment area with reference to a particular Water Bodies

(iii) The rules referred to in section 9 of the Act should be made forthwith to meet any exigency that may arise in the context of a vigorous eviction drive to be carried out with top priority

9.24. Enact a Law to Protect All the Water Bodies of Assam: Assam is gifted with bountiful natural resources like lakes, beels, rivers, hills and forests and in fact plethora of flora and fauna. The Government is the custodian of these natural treasures and it a statutory responsibility of the democratically elected government to preserve, protect, expand and develop them as the true custodian of the people's progress and welfare. It is one of the most shocking stories that as in Guwahati, the water bodies of the entire state of Assam which are innumerable and are spread in every nook and corner of Assam are being destroyed by the monstrous encroachment of the anti-social people who want to thrive and progress by destroying the national and natural resources of Assam. Day in and day out they are up in arms to encroach upon the beels, lakes, ponds, streams rivers and rivulets for construction buildings by filling up the water bodies, cultivating crops, fishing and even depositing huge heaps of garbage as has been done in case of the famous Deepar Beel, a Ramsar site.

9.25. Enforce the Law Banning Hills cutting/ Earth Filling in the Entire state of Assam: The Committee regrets to note that innumerable water bodies of Assam scattered all through its length and breadth like those of Guwahati have fallen victim to decay and degradation due to encroachment and their being converted in to building site by earth filling, sites for cultivation, fishing and depositing sites for depositing garbage, particularly those situated in the adjoin sites of towns and cities. In order to convert it in to building sites, the land mafias/ land grabbers have also resorted to destruction of hills and cutting of earth to fill up the water area. These destructive acts are perpetrated unrestrained by the powerful anti-social elements often with the active support of the political leaders having access to the corridor of powers and the corrupt bureaucrats to stop which it becomes a stupendous task and needs political courage and strong will power.

9.26. The Committee recommends that another Act like the one for preservation, protection, conservation, beautification and development of the water bodies of the Metro-city of Guwahati is enacted with appropriate Rules made there under for protection preservation and development of these

water bodies of Assam. It should be borne in mind that if such immediate steps are not taken, then it would bring not only a catastrophe to the environmental balance and harmony but also will impede development and cause economic detriment to the State of Assam. And, it need not emphasize that for strict implementation of the protective measures spelt out in the enactments, appropriate infrastructure and congenial environment with an eye for safety and security of the future generations must be created which includes strong political will and a patriotic fervor in the mindset of the government if Assam is to be saved from the clutches of disastrous forces working overtime to satiate their aggrandizement at the cost of the nation and the society at large.

9.27. Implementation / Enforcement of the Assam Alienation of Land (Regulation) Act, 1980 is a Must: Under section 4 of the Assam Alienation of land (Regulation) Act, 1980, “ No person shall, without the previous sanction of the Collector obtained in such manner as may be prescribed, make any alienation of any land in favour of any person when such person is(a) an individual who is not a citizen of India; or (b) a body corporate or firm of which the majority of the directors , share holders or partners, as the case may be, are not citizens of India, or which is corporate, formed or registered outside India”

Thus, apparently there are some restrictions on the transfer of land to one who is not a citizen of India or to a body corporate majority of the directors of which are not Indian citizens. However, so far, this has never been implemented to whatever little could be expected to be achieved since its birth. Therefore, it is an attempt made by the Government to hoodwink the people even as it is working in the interest of the foreigners. Again, for some mysterious reasons there are loopholes galore left in the Act either deliberately or callously. First of all, such transfer is not totally banned in the sense with previous permission of the Collector, such purchase or transfer of land is absolutely possible.

Why should the Collector be given a discretionary power to allow sale (or transfer) of land to a foreigner, when a foreigner has absolutely no other right in India except the right to life or sustenance of life for which the foreigner concerned only has to take care? It sounds strange and invokes deep anguish in the heart of any one with a national and rational feeling that when lakhs and millions of indigenous people have no land to construct even a roof over their heads and have been reduced to pauper by the high flood and erosion of the mighty Brahmaputra and they are living on the embankment in a temporarily constructed narrow room covered by a few CI sheets, with children and cattle living together over the last 50 years of independence (e.g. Majuli), what heavenly power could have melted the hearts of the benevolent custodians of Assam entrusted with power to make provisions of land for the foreigners? Whether, it is the duty of the democratically elected Government of Assam to look after the interest, safety and security of the foreigners in preference to the indigenous people of Assam who had elected them to power and to whom they promised protection and development while begging for votes? Why on earth this extra ordinary power of giving permission to transfer land, the scarcest commodity of which the indigenous people are deprived should have been delegated to the District collector? Is it so less important a matter that does not warrant even the permission of the Government?

The Government of Assam, by enacting a foreigner-friendly legislation which goes against the interests of the indigenous people of Assam has done a grave harm and injustice to the people of Assam, which must be corrected immediately though it was enacted by its predecessor government. This matter has assumed serious importance because of the fact that the State of Assam is about to be swamped by the tides of illegal Bangladeshis who have taken to infiltrate in to Assam over the seven decades, and thanks to the fundamental groups working as their patrons and no less the Governments at Dispur and Delhi who by passing an illegal Act called the Illegal Migrants' (Determination by Tribunal) Act, 1983 had

protected and sheltered millions of illegal Bangladeshi Muslims, particularly those infiltrating on or after 25 March, 1971. It is important to recall that the Supreme Court of India had scrapped this illegal Act as *ultra vires* the Constitution of India on 12 July, 2005 on the ground of its being unconstitutional enacted to protect and shelter the illegal Bangladeshis entering in to Assam on or after 25th **March**, 1971

Thus, the Committee recommends that section (i) and (ii) should be repealed immediately in the interest of the people who elected them to be in the seats where they find themselves in now. It is important to point out that one of the most practised trick to garner land by foreign personnel is to form a company and appoint a few hand-picked, favour-seeking persons as Directors of the Company to form a majority as required under Section (ii). In point of fact, however, what happens is that these local citizens are appointed as majority of Directors in the Board of directors only to take advantage of garnering the land while they are absolutely no power and are in practice straws. Another ploy of garnering land by foreign companies is to adopt a practice of appointing Power of Attorney for purchase of land etc. The powers of Attorney have no authority and after striking the deal what they get in return is a paltry commission. So, there are many companies formed by foreign elements through this treacherous device to grab land which must be put to an immediate end. To sum up there is absolutely no point to allow this anti-national Act to survive and, therefore, the entire Act should be scratched/ repealed forthwith.

9.28. Repeal The Assam Agricultural Land (Regulation of Reclassification and Transfer For Non-Agricultural Purpose) Act, 2015: It would be recalled that the Committee had occasion to refer (*vide Chapter-3, part-III*) to the futility and harmful effects of this most unwanted piece of legislation passed with certain hazy motive to regulate and reclassify agricultural land as non-agricultural on certain specified grounds and had also shown with cogent reasons that this legislation will ultimately reduce the indigenous people of Assam in to a landless class of people. In other words the foundation has been laid for making the indigenous people foreigners in their own land and at their own home. The Committee wants to make it abundantly clear that it has given a serious thought to the question of reclassification of agricultural land as a non-agricultural land on the ground of its not being cultivated during the past ten years or on ground of its becoming 'unfit' for agriculture. This reclassification is a prelude to and paves the way for transferring agricultural land for non-agricultural purposes on the basis of an arbitrary decision to be taken by the Deputy Commissioner of the district. For, there is no criteria laid down in the Act as to what factors would exactly make a land unfit for cultivation nor has the Act thrown any light as to the procedure to be adopted in coming to the decision that the land in question has genuinely become unfit. One would be inclined to suspect a rat in absence of such a well-defined criterion of making an agricultural land a non-agricultural land. The Committee is convinced, that the provisions made in the Assam Agricultural Land (Regulation of Reclassification and Transfer For Non-Agricultural Purpose) Act, 2015 will only facilitate and encourage transfer of more agricultural land for non-agricultural purposes and shall not only clash with and be against the policy of ban on transfer of agriculture land for non-agricultural purposes, but also will pave the way to reduce the indigent indigenous cultivators to a landless class of people. As it will highly be detrimental to the indigenous rural people, the Committee feels that this legislation should be repealed lock, stock and barrel.

9.29. Section 8 (1) an Anti-farmer Provision: With high incidence of flood and erosion of the turbulent Brahmaputra and the Barak rivers and their tributaries, annually sizeable stretches of cultivable lands are silted and rendered unfit for cultivation. Moreover, with the rising costs of cultivation on the one hand and high risks to cultivation and the crops in the wake of flood, locusts, and elephant depredations of late, agriculture has gradually become an unsustainable profession and under pressure of crushing poverty, marginal farmers of the rural Assam have been pushed to sell their cultivable land

and abandon the cultivable fields. The Committee is sad to note that this Act of 2015 gives a clear indication that it was passed wholly to favour and benefit the rich trading and industrial class who have taken to making speculative investments in lands both in the town and the rural areas.

For instance, in Section 8 (1) it says that “If any agricultural land mentioned under Sub-section (1) of Section 4 is put to non-agricultural purpose **without obtaining the permission as required under clause (i) of section 3, the land shall be deemed to have been reclassified in to non-agricultural purpose and upon such deemed reclassification, the Deputy Commissioner shall impose and realize a fine equal to two times the Reclassification Premium**”

This simply and clearly means that in the matter of reclassification of agricultural land to non-agricultural one, attractive premium has been put on violation of law and rules. What could be more detrimental to the survival of the indigenous cultivators? Another crucial aspect which should not be lost sight of is that when an agricultural plot of land is transferred for non-agricultural use and the buyer sets up industrial unit in the land, it builds the path of causing incalculable harms to the neighbouring agricultural plots damaging not only the crop but also rendering those neighbouring plots unfit for cultivation by virtue of deposits of industrial effluents and pollution. It may be recalled that the proposed Central land Acquisition Bill, 2014 sponsored by the Government of India had provided for previous consent of 70/ 80 % of the owners of the adjacent plots in the event of acquisition of land for non-agricultural public purposes. **The idea of putting such** hurdles was to make the acquisition of land stiffer. Stiffer and protect the interests of the agriculturist land owner. Therefore, in the interests of protecting the lands and the land rights of the indigenous cultivating people of Assam, the Committee recommends that this Act should be repealed.

9.29.1. Remove the Hurdles that Make Cultivable land Non-cultivable/ ‘Unfit for Cultivation’:

Another crucial fact which must not be lost sight of is that with the fragmentation of land over generations after generations and absence of the practice of co-operative farming by consolidation of holdings, the average indigenous persons have found it gradually difficult to practice cultivation as a profession of sustaining life of the family. Moreover, it has become quite costly and a non-paying profession to take to cultivation as a means for maintenance of family because, a poor family cannot afford to buy a pair of bullock , floods play havoc and destroy crops and cultivation ./ there is no irrigational facilities and no electricity either. The crops are being destroyed day in and day out by the depredating herds of elephant who for want of habitat and food, the make their forays in to village and often after destroying the crops in the field visit homes to destroy everything including the living hose and paddy storage and even kill the inmates of the house by way of retribution. And to put salt to the injury, when eventually a farmer cultivates his land and the production is also encouraging, the Sharks are there to suck their blood in that they are compelled to sell their marketable surplus at throw away prices. Often it has so happened that unable to sell at reasonable price at least at par with the cost price, the farmers have faced heart-rending situation of feeding the commodities to their cattle- a situation which has compelled many to take their own lives. If in such a situation the agriculturist is unable to cultivate his land or has abandoned, it would essentially tantamount to the saying that one does the blame and the other bears the shame in the sense that (i) because of the progressive denudation of the forests, the elephant destroys the crops of the villagers or due to lack of flood control / anti-erosion measures or due to middlemen forming syndicate the cultivators have to sell their hard-earned harvest at the throw away price and due to operation of a combination of these factors, the cultivators have been incapacitated for cultivation of his land and has abandoned the cultivation for which he has to face the destiny of land rights being deprived of him. Therefore, there are hundreds of

obstacle to the path of carrying on agriculture and if for these reasons, a cultivator cannot afford to cultivate his land and it becomes less costly to keep the land fallow, that does not give any ground for converting an agricultural land in to Non-agricultural land because it would be unethical and unjust to take away the land and deprive an agriculturist from his only means of livelihood. It would, therefore be unethical, unjustified and even cruel to take advantage of the farmers' misfortune and execute a ploy of taking away their rights on the ground of keeping it fallow for a continuous period of ten years. The Act is the most injurious one and should be repealed forthwith.

9.30. The Assam Land Grabbing (Prohibition) Act, 2010: One of the most ominous trends that have threatened the security of the land rights of the genuine owners has been the increasing incidence of land grabbing by certain anti-social elements like land mafias, speculators and other law breaking brigands who, operating either individually or in groups, make organized efforts to grab land whether it belongs to the Government, a public sector undertaking, a local authority or an institution or endowment including Wakf land or land belonging to a private person, by force or by deceitful means. The Assam land grabbing (Prohibition Act, 2010) was enacted to prohibit such land grabbing

According to Section 2 (e), land grabbing means every activity of land grabber to occupy or attempting to occupy with or without the use of force, threat, intimidation and deceit any land (whether belonging to the Government, a public sector undertaking, a local authority, a religious or charitable institution or endowment including a wakf or any other private person) over which he or they have no ownership, title or physical possession, without any lawful entitlement and with a view to illegally taking possession of such land or creating illegal tenancies or lease or licence, agreements or by constructing unauthorized structures thereon for sale or hire or use or occupation of such unauthorized structures and the term "grabbed land" shall be construed accordingly"

The salient features of the act are: (i) No person shall commit or cause to be committed land grabbing (ii) No person shall continue to be in occupation of a grabbed land belonging to any of the authorities/ owners mentioned above (iii) Whoever violates the provisions shall be guilty of an offence punishable with imprisonment which may extend to five years and a fine which may extend to 25,000 rupees. According to section 4(3) the minimum imprisonment is two years.(iv) The act forbids selling or allotting or offering or advertising of the grabbed land for sale .The offence is triable in the court of the sessions judge and there is provision for compensation payable to the persons or organizations affected by the grabbing.

9.30.1. This Act on the face of it is all very good. The problem, as usual, however, is in the domains of prevention of such land grabbing through enforcement of these legal provisions. Sadly, as in case of administration of all other laws, there is none to enforce the laws. There are no schemes devised to organize effective measures to control and regulate the illegal activities of the land grabbers. The land grabbing by these mafias are going on as fiercely as always and the sufferings of the victims have not seen the end of it. What is the point of enacting a law, if it is not implemented and the victims get no relief? For all practical purposes, these laws are as bad as a soulless body and in this situation, these laws remain no more than as a paper tiger and an eye wash for the real victims. The question is: why do the governments enact laws which it does not enforce or has no intention or ability to enforce? Where does the rot lie? What should be done? To revamp, rearm and restructure the Revenue / Forest Department of the Government? The committee has recommended appropriate measures which would match the gravity of the danger and would bring some measure of relief to the helpless victims of the malady, in the chapter that follows.

9.31. All Land –Related Laws to be Codified: The Committee in course of its reviewing various land- related laws including the Assam Land and Revenue Regulation, 1886 had observed that there were at least 50 land laws enacted by the Government of Assam and that while in case of quite a number of them, some of the provisions had become outdated and outlived their utilities, some other laws were not easily available. This not only creates difficulties in disposing off important matters promptly but also causes impediment to preserving the laws and the various Rules made there under intact. The Committee has considered this matter with an insight and feels that in order to circumvent these difficulties, the Revenue Department codifies all the land laws and the Rules made there under in required number of volumes. The Committee feels that such a step would facilitate efficient functioning of the Government and accordingly recommends that the government in the Revenue and D.M. Department takes this step urgently.

Chapter 10

*“Calm appears when storms are past:
Love will have its hour at last”*

- Dryden

Evolution and Reformation of the Revenue Department of Assam

10.1. Evolution of the Revenue Department and the Concept of Secretariat: The advent of the year 1874 was a landmark development for Assam because it was in that year that Assam was constituted, for the first time in its history, in to a Province under the Chief Commissionerate vide a Notification dated 6 February, 1874. The honour of being the first Commissioner ever goes to Col. R.H. Keatinge who assumed the of the Chief Commissioner ship at Gauhati on February 7, 1874. And, amusing as it may be to think, his secretariat consisted of only one Secretary and three departments viz; General, Judicial and Revenue with two subsidiary departments - Native and Records. The total sanctioned strength of the Secretariat from Head Assistant to Sweeper was only 33 with monthly expenditure of Rs 2161/- only. During the period between 1905 and 1912 when Assam was merged with East Bengal and its capital shifted to Dacca, the number of Secretaries was increased to 3 .Three Departments- Revenue, Appointment and Education Departments- were looked after by the Chief Secretary himself while the other two secretaries looked after Judicial and Finance Departments. And, when Assam was again upgraded as a separate province under a Chief Commissioner for the second spell, the number of secretaries was reduced to 2 again.

10.2. It would be seen that Revenue department was one of the three original departments and was given a topmost priority to its role and function. It was designed as a multipurpose Department with heavy responsibilities assigned to its shoulder. Its responsibilities were diverse and included subjects like Forests, Immigration and Labour Finance, commerce, Economic products like indigo and tea, excise and registration survey and settlement agriculture, veterinary, irrigation and canals, co-operative credit , fisheries, weights and measures, archaeology and museum, court of wards , mines and minerals, famine and flood relief, debt Conciliation Board etc. It would be seen that while the revenue department was the department round which almost all the important departments had revolved, the volume of work under each of these departments was small and their nature simple.

10.3. However, the volume and nature of works started changing since the thirties of the last century and to cope with the changed situation particularly in the context of increased population due to natural growth, influx of labour from the then East Bengal for cultivation of both paddy and the commercial crops like jute tea, the volume of works of the Department had increased and with it, the Department too had expanded. Besides, with the independence of India, development became the main thrust of the Governance besides the traditional areas of land revenue, supply and maintenance of law and order. Moreover, with the British gone, new problems with new dimensions in increasing number of areas emerged and it was imperative to re-mould and reorganize the department with a changed national perspective So, the Revenue Department was divided in to two distinct branches, viz., Revenue General and Revenue Settlement. Then, after 1947, a number of land reforms measures were adopted

necessitating a separate wing in the revenue department for better administration and prompt delivery of the services to the people. In 1956, the Revenue Department was re-grouped in to four major branches, viz.

- (1) Revenue General Branch
- (2) Revenue Settlement Branch
- (3) Land Revenue and Land Acquisition Branch; and
- (4) Land Reforms Branch

It is needless to say this re-organization of the all important Department of Revenue and D. M still exists substantially intact.

10.4. It is to be noted that since 1947, seven full decades of free India have rolled by relentlessly and during these seven long decades astronomical changes have overtaken India metamorphosing Assam in to a problem-infested State with no apparent solution. Some of the crushing problems stashed on its shoulders is ceaseless infiltration of the land hungry Muslim peasants from across the indo-Bangladesh international borders which have been kept perpetually open, thereby facilitating their regular exodus. These illegal infiltrators have their morbid lust for grabbing all kinds of lands and get settled on the encroached land high flood, O the other hand, high flood, siltation of agricultural land and erosion by the mighty river Brahmaputra and its tributaries have become factors of destruction of substantial chunks of cultivable and homestead land, thereby creating a great scramble for land for the indigenous people. Besides, political division of the State of Assam from whose bosom were carved out several new States like Nagaland, Meghalaya and Mizoram, operation of land mafias, land grabbers, land brokers have the land scarcity more intense. While enactment of the land reforms legislations to prevent concentration of land in a few hands have led the way open for distribution of lands to indigenous landless people or to set up Industrial Growth centres of the state, the attainment of these goal still remain a far out cry. Frankly, the Department seems to have failed to live up to the expectations and cope with the challenges it has been faced with. Thus, the expectations cherished by the people, the hopes raised and the promises made by the Government whom they had chosen as the custodian of their welfare, have turned in to, a bad dream. What is worse, they have lost faith in our great democracy because of the government's non-performance. And as such, it is imperative that the Government of Assam researches in to its inherent strengths and weaknesses, digs in to the shortfalls inherent in the system of governance and re-arms and re-activates itself so as to rise from its inertia, so as to live up to its promises and meet the peoples' expectations.

10.5. The Committee was inspired to go in to almost the entire gamut of the problems relating to administration of land generally while a few grave ones were gone in to rather intensively and extensively and with deep insight. In doing so, it was motivated by the gravity and dimension of the problem of protecting the State's fast dwindling land resources and extinction of the land right of the indigenous people of Assam. Be that as it may, the recommendations made in this Chapter are confined only to revamping, re-organization and expansion of the Revenue and Disaster Management Department in its present form and structure. It is hoped that the Government would put them in to a fair test and devise ways and means to implement them, as far as feasible.

10.6. The Committee will also like to say without any reservation that the mismanagement of land system in Assam has presently reached an anarchical stage such that the people of Assam have been

pushed to carry on its shoulder an extraneous burden of a foreign population from a land now called Bangladesh. It is a matter of grave concern and deep anguish that the democratically elected Governments both at Dispur and Delhi have unleashed an unwanted crushing burden of millions of illegal Bangladeshis on the indigenous people not only by (i) facilitating ceaseless infiltration of these foreigners by keeping the indo-Bangladesh international borders via Assam, Meghalaya and Tripura but also by (ii) sheltering and protecting them by enacting a strange legislation called the IM (DT) Act, 1983. It is a flagrant violation of the sanctity of the Constitution of India and great dishonour to 855 *swahids* who sacrificed their lives in the Six year long Assam Agitation launched to detect, deport the millions of illegal Bangladeshis swamping Assam Agitation during 1979-85. Even after more than three decades of the record breaking, unique agitation, the Assam Accord, 1985 remains basically un-implemented. The disastrous effect of the dominating presence of the illegal Bangladeshis has been fully reflected in the mass encroachment of lands in Assam by these very unwanted hosts from Bangladesh. So, any talk of protecting land rights of the indigenous people of Assam makes it incumbent on the government to enforce the existing laws, improve the land management system and implement the provisions of the Assam Accord fully. Improvement of the land management shall entail overhauling the Revenue Department existing in its present form. Or else, agriculture is bound soon to be a deserted profession of the indigenous people of Assam who are bound to be reduced to foreigners at their own home. More importantly, the indigenous people would soon discover themselves as a non-agriculturist labour class and the posterity would be left to curse the present generation for pushing them to be homeless, identity less and rootless wanderers in their own home, if the illegal Bangladeshis invading all classes of land of the state are not detected and deported soon..

10.7. Identifying the Sources of the problems: (i) From an overall analysis of the functioning of the Department as a whole, the Committee is inclined to conclude that there are shortcomings in the Department at least on the following fronts: (i) Non-posting of right person for the right job (ii) Lack of rational allocation of responsibilities to the officers (iii) Lack of norms for optimal utilization of the services of officers and employees (iv) lack of specialized knowledge amongst the officers (v) frequent transfer of the officers to other departments (vi) lack of supervision, monitoring and control (vii) lack of Commitment among certain officers and (viii) Corruption as deterrent to speedy delivery of services. **Therefore, any programme of improving the performance/ reforming the administration of land shall have to address these root causes.**

10.7.1. Let us take just one example of the Revenue General Branch. One of the most important tasks allocated to the revenue general branch is to deal with and dispose of all matters stemming from natural calamities like flood, erosion, earthquake, storms etc. Such works comprise not only giving immediate relief but also rehabilitation of the displaced persons/ families rendered homeless due to earthquake or erosion. It is heart-rending to say that there are a good number of people in places like Majuli as also in many other places, who were rendered homeless by the earthquake of 1950, high flood and erosion, and for want of anything in the name of rehabilitation by the GOA, they are passing their life on the embankment by constructing temporary roofs of a single room which is shared by the members of the affected family and their cattle. Such a pathetic account only reminds one that the Department which has not been able to rehabilitate even homeless shelter-less distressed people is virtually dead. It is important to note that the absence of any norms or principle for fair and rational distribution of works amongst the officers and employees as also a mechanism of supervision, monitoring and control of performance of the officials hampers prompt and efficient delivery of services to the people. In the result, the grievances of the people go in default non-performance of the officials undetected and un-deterred.

So, what is needed is setting up of a Monitoring, Supervision and Controlling Cell which can check non-performance and bring the delinquent officials to discipline and improve the delivery system as a whole.

10.7.2. Revenue Settlement Branch in the Non-performance Jigsaw: One of the most important branches of the Revenue Department is the Revenue Settlement Branch which is entrusted with such subjects of crucial importance as (i) formulation of Land Policy, (ii) allotment and settlement of land for agricultural and homestead purposes (iii) Resettlement Operations in the districts (iv) Re-classification of land and re-assessment of land revenue (v) Matters relating to inter-country boundaries (vi) Matters relating to inter-state boundaries (vii) Matters relating to Revenue Board, Director of Land Records and Survey, (viii) allotment and settlement of land for special cultivation of tea, coffee, rubber and citrus gardens under the small growers etc. However, most of the loopholes and anomalies that have vitiated the performance of the revenue Department as a whole originate from this particular Branch only. For instance, the Re-Settlement Operations to start which it is rather a statutory responsibility of the government of Assam has not been conducted for the last six decades. And there is absolutely no earthly reason for withholding this operation which is a sine-qua-non for both the stakeholders, and the Government particularly in view of the fact that unless the resettlement operations were made at the regular/scheduled time, the validity of the pattas of the pattadars expires or the updating of the records of various rights of the people suffers setback thereby causing untold delay and harassment to the stakeholders. What is even more curious is the fact that this top-heavy Department is manned by an Additional Chief secretary, a Principal Secretary, a Commissioner and secretary and a Secretary of the department. Such inaction and callousness on the part of the top heavy administration tantamount to dereliction of duty, reflects the height of negligence, callousness and devoid of any sense of commitment to the cause. This is not the only serious latch that has ailed this Branch. We have made our observations in Chapter 9 and elsewhere in no uncertain terms that the enactment of the legislation called The Assam Agricultural Land (Regulation of Reclassification and Transfer for Non-Agricultural Purpose) Act, 2015 was designed to create a new class of landlords from out of the lands belonging to the indigenous cultivating people in the persons of the business and industrial community. **The harsh reality is that this mischievous enactment will most decisively build the foundation of reducing the indigenous cultivators of rural Assam, eventually to create a landless class of the pristine people.** The Department/ Branch should have known that there are hundred and one impediments to the marginal or middle-level cultivators' inability to stick to agriculture as a profession in the given years, particularly in the face of heavy and routine damage to their cultivation/ crops in the field by heavy flood, erosion, siltation, routine depredations caused by herds of starving and shelter-less elephant, and by no means less painful, the seasonal glut of the harvests in the market that make farmers' tearful cries unheard in the wake of their inability to sell their market products. And, unable to sell their produces even at throw-away prices or, as is true in most cases, and when they are pushed to feed the un-sold stock to the cattle- they consider it a better remedy to commit suicide than to carry the unsold products back home. If in this sad situation agriculture becomes for them an abandoned profession, how can the rights of the indigenous people of Assam be protected?

10.7.3. The Non-functional Office of the Director of Land Records and Survey (DLR&S): The office of the Director of Land Records & Survey (DLR&S), a major head of the Department which constitutes the eyes and ears of the Government has been in deep slumbers with a state of inertia writ large on its face. The Assam land records manual elaborately describes the duties and responsibilities of the revenue officials beginning from the Recorder (Mondal) at the lowest rung to the Circle Officers and Deputy Commissioners at the highest level. While the Recorder (Lat Mondal) is required to maintain the

land records up to date (Rule 15) in addition to making assessment of new lands, the Supervisor Kanango (SK) is supposed to supervise the works of the Lat Mondal. Under Rule 29, a Recorder is required to maintain a Diary recording everything he has done during the day. Under Rule 38, he has to maintain as many as 17 Registers recording every detail of the lands within his jurisdiction. And yet the Chitha remains un-written or un-updated, the land classification and record of rights remain unwritten (Rule 58). Separate Jamabandi s are to be prepared for (a) periodic patta (b) annual patta (c) and there are separate jamabandis for special tenure such as nisf-khiraj (Rule 70) And yet these remain only in the pages of books. Neither the SK supervise the basic works of the Recorder nor the Circle Officer finds time to take things in his grip as he is encumbered with hundred and one such important things. In fact, it is hardly 10-15 % of his time that he can devote to the land and revenue-related works. During operation of the Spring tour of the Mondal, he is required to (i) distribute the pattas (ii) survey of new lands (iii) verification of relinquishments ((iv) preparation of chithas (v) inspection of sarkari dags and VGRs etc. He admittedly fails to discharge such commitments. Otherwise, the encroachment of VGRs and all other government lands would not have assumed such a disastrous dimension reaching a point of no return.

10.7.4. But the DLR who is normally supposed to be a very senior officer, (at one time held by an officer of the level of Additional Chief Secretary), seems to have renounced his responsibilities of attending to these crucial duties. During the Committee's visits to different districts or the stakeholders' visit to the office of the Committee, the latter had expressed clearly that during their life time they had never seen what a Patta of the land which they have been enjoying from generation to generation, looked like. The Deputy Commissioner is very much a part and parcel of the system of land administration of his district. But because of the fact that he/ she is overburdened with hundreds of other pressing subjects, he thinks, and may be rightly so, that he is unable to devote the required time. However, the Committee feels that given top priority to matters pertaining to land that it deserves and keeping in view the fact that land is a very special gift of nature to increase which human beings have no power, some reasonable time to attend to and streamline the top priority matters like expediting and monitoring of the issues of patta, partition of estates, mutation etc should necessarily have been found.

10.7.5. Another Defunct Directorate Called Directorate of of Land Requisition, Acquisition and Reforms: Similarly, there is a separate Directorate called Directorate of Land Requisition, Acquisition and Reforms (DLRAR): which is charged, in addition to requisition and acquisition, with reforms of land. But sad as it is to say, the Directorate of Land Requisition, Acquisition and Reforms has so far done precious little, particularly in the arena of implementation of the various reforms laws. It has to be remembered that this directorate is one of the major Directorates with adequate manpower and all other necessary infrastructures. However, the result derived from this huge directorate is dismally poor despite the fact that the Revenue Department is manned by a host of top bureaucrats including one Additional Chef Secretary, One Principal secretary, one Commissioner and secretary and a secretary all of whom are IAS officers. If the department manned by top level IAS and ACS officers cannot deliver the goods, the question arises: what is the need for maintaining such a battalion of high profile IAS officers at the cost of the poor indigenous people of Assam? The truth, however, is that these IAS officers who hail mostly from other States lack commitment to the cause of the indigenous people and the only thing that they are obsessed with is their career. They only dream of an assignment on deputation to the Government of India (GOI) which to them is the most cherished goal of life. In that view, these IAS officers from outside the State may be termed as birds of passage with their eyes fixed on career,

though being a careerist need not make one devoid of commitment to the cause of keeping the trust of the Government.

Thus, the story of shortcomings/ failure of the Revenue Department is endless and it would make a complete volume to describe such inaction and shortcomings fully. Since it is not the intention of the Committee to harp on the failure of the Department beyond what is considered necessary to bring home the roots of the malady, the nature and extent of the loopholes and anomalies and that too, only so far as they are considered necessary to throw a beaconing light for correction of the anomalies, we now turn to making certain specific recommendations covering some of the broad aspects of the reforms/ modification needed in terms of re-structuring/ revamping and re-organizing the department, if only to refurbish/ re-orient it as an effective tool for serving the crucial needs of the time:

Recommendations

10.8. The Committee has given a serious thought to cover all dimensions of the entire gamut of problems relating to or emanating from the administration of land and revenue system of Assam including legal and administrative loopholes, organizational deficiency in the Government machinery, degraded work culture amongst the bureaucrats and workers and recommends as follows:

10.8.1. Rename the Department: The Revenue Department was created in 1874 by the British administration. In those days, there was hardly anything in the name of development. The only purpose for them to be pursued was to collect maximum possible quantum of land revenue from the land they ruled and enrich the exchequer of their homeland. They had no reason to be bothered about welfare of the native people of Assam or the development of Assam. Although they certainly did some developmental work like construction of roads and railway lines, they did so only to enhance chances of their gains through such construction works. The function of the Revenue Department is now not only confined to collection of maximum revenues or of making or amending the laws with a view to maximising the collection of land revenue. The main plank of its existence is development of agriculture, improving the mode of living of the farmers of the State and welfare of the indigenous people assuring, security of land tenure and the socio-economic development of the people. The Committee, therefore, recommends that the Revenue Department of the GOA be renamed as “The Department of Administration of Land Resource and Reforms”.

10.8.2. Upgrade the Post of the DLR&S: The office of the DLR&S is the oldest and the biggest outfit. The duties and responsibilities assigned to it are heavy and fundamental. It was till sometime back, that only pretty senior officers with vast experience of land and revenue matters were posted as the DLR& S. However, during recent times, the government has started posting pretty junior officers who have only scant or no experience of working on land and revenue matters. There has thus been a perceptual vacuum at the apex level of the Directorate which is one of the main reasons of killing the incentives of the officers below. The Committee, therefore, recommends that the post of the DLR&S be duly upgraded, having regard to the nature and dimension of the problems, and henceforth only a pretty senior level officer say, of the seniority of a Principal secretary, be posted as Director of land records & Survey. The Committee recalls that there was a time when the post of DLR&S was equated to that of the Chief Secretary and was filled by Sri SML Bhatnagar, IAS who was one place senior to the then Chief Secretary, Mr. A.N Kidwai, IAS.

10.8.3. Merger of the DLRAR under the Upgraded DLR&S: In the above context, the Committee recommends that the post of DLR&S may be upgraded and re-named as the Commissioner of Land Records and Survey (CLR&S). In that case, the Directorate of Land Requisition, Acquisition and Reforms may be brought under/ merged with the CLR&S. Besides, this Commissionerate should be put in charge of the programme of Digitization of Land Records. And to balance out the responsibility of the new Commissionerate, adequate number of officers of the seniority of a Director should be posted under him. And, the Joint Directorate of Survey may be upgraded by posting an officer to be named as Additional Director, Survey who may be an officer of the administrative cadre for better administration of the task of survey in the state.

10.8.4. Upgrade the Assam Survey and Settlement Training Centre : The officers posted in the Directorate of Land Records & Survey must be a rigorously trained officer and must have received intensived appropriate training in survey and settlement in a technically competent training institute. With that end in view, the Committee recommends that the present Assam Survey and Settlement Training Centre be upgraded and expanded to a much higher level. The committee recommends that the upgraded Institute be renamed as The Institute of Survey, Settlement and Land Records. This should be of the level of a Directorate and the head of the institute should be re-designated as the Director of the Institute of Survey, Settlement and Land Records.

10.8.5. Ban on Utilization of the Services of Revenue Officials for Non-Revenue Works: One of the greatest obstructions hampering the revenue works entrusted to the revenue officials beginning at the top from the Deputy Commissioner, Additional Deputy Commissioner, Sub-Divisional Officers and Circle officers and down to the Recorder or Mondal is that these official are required to attend to all types of works of the other government departments pertaining not only to General or District administration but also to any other department. In fact, if what is reported is correct, a Circle Officer can hardly afford to devote 10% of his time for revenue works and for most of the day he has to be busy in attending to miscellaneous works like law and order, the unwarranted Protocol duties, election duties, various Censuses including decennial census, agricultural census, Socio-economic Caste census, relief operations to the victims of natural calamities like flood, erosion, earth quake, storm, supply works etc. Often times, he is to attend to innumerable meetings within his circle as a representative of the Deputy Commissioner, in which capacity, he is required to be engaged in monitoring the progress of implantation of various schemes undertaken by the various other departments. In fine, there is no end to the duties he is encumbered with. The result is obvious. The normal revenue works and the stake holders suffer; works accumulate to a point of no return. In most of the Districts there are one or two senior ACS officers who are designated as Additional Deputy Commissioner(s). Since as an ACS officer, he is also responsible for doing other administrative works, he can hardly devote any time to the revenue works. And of the Deputy Commissioners, the less said is better. Incredible as it may sound, a Deputy Commissioner being the head of the district administration is burdened with endless works. He chairs innumerable committees under various departments which number 250 to 300. Is it humanly possible for a single person to discharge such multifarious duties and yet concentrate on revenue works, which need concentrated attention?

To say it succinctly, there is no revenue officer/ official who can devote his/ her time exclusively to the revenue works. Unless this basic malady is seriously addressed, the land revenue works will continue to suffer and suffer irretrievably at that. Therefore, while it is good that the Government has created a separate revenue Service cadre who could be exclusively utilised for the revenue work, during the interim period till the officers of the newly created cadre earn seniority to reach the level of Additional

Deputy Commissioner, at least one Additional Deputy Commissioner designated as ADC (Rev) should be strictly kept away from attending to other administrative works. Similarly, there should be posted a Sadar SDO (Revenue) for doing exclusively land and revenue works. Queerly enough, even the Recorder is not spared from attending to works of other departments like Agriculture, excise in conducting Excise raids. In other words, the degradation and decay of this original and crucial department has been hastened by all other department. The Government knows it full well that to allow the recorders and other revenue department officials to be used for the works of the other department are to allow it to make it non-functional in its own area.

The committee, therefore, recommends that the government must strictly prohibit use of the services of the revenue department official in any works other than land and revenue works and to facilitate pursuing this policy, strength of the manpower/ posts of other departments should be correspondingly increased

10.9. Upgrade the Post of Recorder/ Supervisory Kanungo(SK): The Committee further observes that the Recorders are the officials who work at grass root levels from where almost all the problems stem. It is easy to see that had all the field works been performed in strict adherence to the rules and procedures and on time without allowing the normal/ routine works to be accumulated, then most of the problems relating to non-performance at the lowest levels would not have arisen. To make it worse, there is almost universal absence of the system of supervision of the works of the Recorder or of the Supervisory Kanungo (SK). In order to remedy the evils arising from the recorders'/ SK's not performing their duties, (i) the status and qualification of the Recorder have to be raised and the system of supervision at each higher level should be made compulsory which should be authenticated from the recorded Diaries/ Returns required to be sent upwards under the relevant Rules of the Land Record Manual. The system of supervision and monitoring should be strictly maintained so as to cover the entire system of supervision at each higher level. There should be maintained a kind of Self-Performance Appraisal Report (SPAR) which should form the basis of elevation to a higher echelon, where such scope exists

10.10. Ban Appointment of Unqualified Persons as Recorder: The minimum academic qualifications of a Recorder should be Higher Secondary passed. None who has not had a certificate of successfully completing Survey training should be recruited as a Recorder. In that view, the relaxations made under Rule 13 of the Land Record Manual wherein the DLR&S, on the recommendation of the Deputy Commissioner, can relax the qualifications in certain cases provided the recruitee in certain cases has performed certain minimum amount of survey works correctly, should be abolished.

10.11. Re-name the Post of Recorder: In order to inject some feelings of respect and dignity attached to the post of the Recorder in the mind of the recorder and to enhance the sense of accountability in him, the name and the level of the post of the Recorder should be changed / raised. It is suggested that the nomenclature Recorder (Mondal) should be substituted by appropriate nomenclature. Preference should be given to those candidates who have, in addition to the normal qualifications, a diploma in computer or any other technical branch of learning/ qualification. The Posts of the Recorder should be reorganized on the basis of certain norms such as number of villages or the aggregate workload he/ she is loaded with having regard to the fact that the process of digitization would make considerable change in the method of functioning. The pay scales of the upgraded Recorder should be commensurate with the responsibility/ accountability and status.

10.12. Enforcement, of Land-related Laws, Policy and Programmes of the Government and Monitoring and Control of the Progress of Implementation: The Committee has exhaustively dealt with the problem of encroachment of all classes of land –be they Debottar/ Dharmottar/ Brahmottar land or protected Belt/Block land or Forest Reserve land or char lands extending from Sadiya to Dhuburi. In fact, the entire Assam is in the inextricable grip of encroachment of land particularly by the land hungry suspected Bangladeshis who fall on any kind of vacant land like the vultures on the corpse, leaving nothing and swallowing everything. Few realise and far less by the government do that if the trends in organized encroachments on land by this unwanted guests are not stopped immediately and the lands already grabbed are not retrieved by launching a massive policy of eviction of the encroachments systematically supported by a holistic plan, then time is not far when the very identity of Assam, let alone the land right of the indigenous people of Assam, will be extinguished. The sooner the Government of Assam realizes this harsh truth, the better for it and for the people of Assam. The principles and the programmes for this should be pursued as a matter of policy. The preventive and ameliorative measures must be commensurate with the magnitude and intricacies of this unprecedented problem. As has been already described, a total of 26, 90,006 approx. hectare of land is under encroachment according to the Government of Assam estimate. It is not clear if this figure includes the areas under encroachment in the Char villages. In addition to these figures, according to one reliable estimate, a total of 1, and 94,622 hectares of forest lands which include the famous Manas National Park and other reserved forests are under encroachment. These figures are astronomical and to think of clearing these vast areas is by itself a Himalayan task. If the government really thinks in terms of protecting the land rights of the indigenous people of Assam, it has no option but to rise up to the occasion and launch a war of eviction against swarming encroachers from across the Indo-Bangladesh borders rather on an emergency footing seeking help and co--operation from all the people or classes of people.

10.13. Create a New Directorate called Directorate of Law Enforcement and Removal of Encroachment of land : In that view, the Committee recommends that a new Directorate of Law Enforcement and Removal of Encroachments of Land be immediately created with three Additional/ Joint Directorate- one at Jorhat, another at Silchar and the third at Bongaigaon armed with sufficient man power at each of them. There should be a Task Force created under this Directorate. The task Force should be made up of Assam Police and Paramilitary Forces including BSF, Assam Raffle, CRPF, ITBP, armed with adequate and appropriate arms and ammunitions at its command. The task of the Task force shall consist of (i) Eviction of all encroachments from all classes of land including VGR, PGR, Protected Belt and Block, Reserved forests, Roadside and riverside lands, Waste land, Char land, debottar, dharmottar and brahmottar land etc (ii) The eviction of encroachment of the Inter-State border lands and (iii) international Border land in tandem with, or by way of providing additional support to, the paramilitary forces guarding the international borders.

10.14. Make it a Holistic Plan: The programme of eviction of all encroachments should be launched under a holistic plan that takes care of all the aspects connected with eviction and clearance of government land, prevention of re-encroachment etc. Each programme should be so meticulously made and ensure that all possible eventualities are foreseen and arrangements made accordingly. The Task Force should be enabled to act speedily and objectively.

Chapter 11

*“Gather ye Rose-buds while ye may,
Old time id still aflying ;
And this same flower that smiles today,
Tomorrow will be dying”*

-Herrick

A Hidden Malady: In Search of its Root

11.1. The wings of time fly eternally, never once looking back; the world in deference follows, racing to keep pace. And as it does so, it suddenly discovers the changes called progress that has enveloped itself beyond belief. Yes! The fleeting march of time causes the world to change and commands the civilization to obey and follow. So, everything around us changes with the changes in time. If we fail to keep pace and move with the rapid strides of time, then we are destined to be left aside and get lost in the sea of invisibility. For, science and technology have reduced the world to a small global village and the environment to be a maid of its inventions. In that view, the society itself has become both a tool and product of changes. Survival is now a matter of keeping pace with the break neck speed competition, a matter to adjust oneself with the changed environment all around.

The indigenous people of Assam who includes the Assamese have found themselves encircled and threatened by a crisis. That crisis is a crisis of their identity. Its cause is rooted in their unflinching culture of love for ease, aversion to hard labour and dependence on the illegal Bangladeshis for living their daily life with the consequent fallout of continuous infiltration of millions of illegal Bangladeshis. This is a phenomenon running since the beginning of the last century. This illegal immigration is going on uninterrupted, un-deterred and un-deported. Thus, their stock has continuously increased in geometrical progression such that they have become or are likely to become majority population in as many as 14 districts of Assam with several more districts destined to follow in the coming Census of 2021. So, if this trend is allowed to persist, a day is destined to come in not too distant a future, almost with arithmetical precision, when the indigenous people of Assam would be reduced to naught and get lost in the sea of this brand of immigrant population. And may be, the identity of “Assam” as well, would be a history. This is the malady. This is the tragedy that needs to be introspected and remedied. Let us dig a bit in to its cause and cure, if at all.

11.2. It is almost a universally recognized truth that Bangladesh has turned out to be the world’s most productive human factory which, unable to maintain the balance between the internal needs for and supply of human beings, has taken upon itself to feed the global labour market. The problem is that due to their glut in the internal market and absence of absorbability internally, the seekers of greener Pasteur across the national borders find their way in to all over the world markets. While India, the original part of their present manifestation called Bangladesh, is naturally their preferred destination, the choicest one receiving topmost priority happens to be Assam. The question is, why Assam first? The answer is, no other place in the world is as safe, secured and assured and nowhere else in the world can they receive so facile an entry and a red carpet treatment as they can do in Assam.

11.3. The reasons for this are historical, cultural and may be, anthropological. Assam may be called a kind of anthropological Museum containing stocks of multiple or rather innumerable species of human races tinged with colourful backgrounds of different language, culture, religion, belief and superstition – all living under the same climate and in the same environment. And, yet, they all of them have mystically acquired the common characteristic features – love for ease and leisure, aversion to hard work and false notion or sense of prestige or dignity as also inhibition for petty professions. Their temptation to live a life of luxury without putting up matching efforts to live that level of life has acted as an inescapable inducement to be dependent on others for living their day-to-day life. And in this, they find the hardworking illegal Bangladeshis handy. Their temptation to good living with least efforts and assured income has also ingrained in them a job culture. If it is a government job, it is a heaven for them even if it is a peon's or Chowkidar's grade IV job as it ensures fixed income without taking the required pains. To get this job is to fulfil life's ambition for any middle-educated youth and to get such a petty job, they are prepared to give bribe in lakhs of rupees, even by selling or mortgaging the cultivable land, the only means of livelihood of an average rural/ cultivating family. Of late, their addiction to indolence and petty job culture has threatened agriculture to be an abandoned profession and their land holding a vanishing concept. So, if this slavish mindset of the Assamese/ indigenous people is not reversed, illegal Bangladeshis shall continue to infiltrate, multiply their number, intensify their land encroaching mission and extinguish the land rights of the indigenous people of Assam. The question is: How can this killer instinct of indolence, abhorrence of hard work and dependence on Bangladeshis be reversed and wiped out? This is a malady afflicting these people throughout the ages, may be as a magic effect of, as John Mc 'Kosh had thought, the damp climate of the land.

11.4. Be that as it may, the harsh reality is that due to indolence and lethargy of the people of Assam, Bangladeshis find Assam their choicest heaven. The indolent people discover in them Messiahs in that they can fulfil their dream of a cosy and comfortable life with a ready-made stock of Bangladeshis to serve them in every walk of their life. First, the Bangladeshis work on their land as cheap labourers, then as co-sharers and then their co-pattadars! This easy access to land and cultivation induces more Bangladeshis to take their trodden route to Assam-thanks to the agents and fundamentalist forces who act as their friend, philosopher, guide and patrons. The process goes on; the malady is deeply rooted in the body and mind of the victims and the tragedy of eclipsing the identity of the indolent class of people sneaks in to their culture silently, slowly but surely only to do what is inevitable to be done. It is in this tragic background that the land rights of the indigenous people are threatened to be extinguished, that the identity of Assam being swamped by the swarms of ants invading ASSAM IS being whistled in the air.

11.5. This grave disaster must be averted. The very first thing to realize is that this age long malady is so deep-rooted in the culture and psyche of the people that it has assumed an undying vigour and stature. To eradicate this malady is to plunge in to a total war against its roots. A massive campaign to salvage the victims from its tragic hangover has to be launched in the form of Awareness Programme under the aegis of the Government of Assam involving not only the victims of indolence and dependence on Bangladeshi for their daily domestic chores but also involving the society at large including intellectuals, scholars, litterateurs, social thinkers, administrators, educationists, journalists and so on, so that it becomes a National Movement of Self-dependence, inculcation in the common psyche the sense of dignity of labour. This awareness programme should also according social recognition to those doing petty professions like vegetable sellers, Rickshaw pullers and technical works of plumber, carpenter, mechanic etc. Putting legal embargo on employing illegal Bangladeshis by

employers should also form its part. In addition, Government of Assam should create a new Department for Self Employment of Indigenous Youths with adequate man power and budget provisions and launch regular demonstrative/ Awareness programmes in various districts so as to implement the agenda in full swing. Such educative and demonstrative programmes should be supported by various incentive programmes so that to make the people switch over from indolent and job culture to a culture of according dignity to agricultural pursuits/ farming, wage labour and hard works becomes an inspiring and aspiring pursuit over a period of ten years .

11.6. There is another neglected area to which attention of the government is called for. Ignorant, illiterate and indigent, most of the farmers are not aware of the government schemes under which various benefits to the farmers are extended by the State or Central governments. In many cases, they cannot approach the agricultural or other officials of the concerned departments to know how or where to apply for what facilities given in various fields of activities. Or even where they approach, it often happens that the response of the officials is poor. To address such shortfall, the government of Assam should launch a series of systematic and extension services to provide information and assistance. **For example, the government may adopt a policy of procurement of their products during the seasonal glut by way of price support so that the exploitation of the middlemen and syndicate do not take away their hard-earned products at throw away prices and ultimately push agriculture to be an abandoned pursuit.** Once agriculture becomes an unsustainable profession, their cultivable land will fall prey to the land-sharks out to purchase their land. The government also needs to play an proactive and patronizing role in creating such infrastructural facilities or playing a supportive role as providing irrigational facilities, supplying high yielding varieties of seeds, encouraging and assisting multiple cropping, composite farming, anti-erosion and flood control measures, facilitating easy bank or government loan, crop insurance facilities, cold storage facilities, tractorisation facilities, protecting crops of the cultivators from depredations by the shelter less herds of elephants etc through an agenda of afforestation to replenish the lost forests, farming on co-operative basis, and more importantly, controlling syndicate and middlemen who deprive the farmers of their legitimate price for their harvest and exploit the consumers at the town end and creating cold storage facilities usable by the local farmers. Even setting up of organized markets would assure the farmers of a reasonable price for their regular produces. In fine, a holistic package of services on the above lines shall go a long way in creating incentives amongst the farmers for whom agriculture has become progressively a prohibitive pursuit, fraught with selling their land. To check this possibility and protect the land rights of the indigenous people, Government of Assam has a very vital role to play in removing the rust from the shattered work culture of the indigenous youth and uplifting agriculture to be a sustainable profession.

11.7. There is even more ominous aspect of this sad story of unwittingly committing community suicide by the indigenous Assamese people. The illegal Bangladeshis thrive and prosper in Assam not only because the political or the fundamental class of people shelter or protect them. In fact, in this tragic drama of suicide committed by indigenous people, every section of the society- be they politician or bureaucrats or educationists or teachers or businessman or builders or fundamentalists- all without exception have fallen in to this invisible suicide trap of the nation. Thus, politicians shelter and protect them succumbing to gains of vote bank politics. Its shining example is the enactment of the so-called IM (DT) Act, 1983 which sheltered and protected the millions of illegal Bangladeshi for 22 years until the said strange Act was declared unconstitutional by the Supreme Court of India on 12th July, 2005. Then, though the Hon'ble Supreme Court's said order directed the Governments of India and Assam to detect and deport the illegal Bangladeshis, the said direction of the Apex Court remains un-complied with as

yet with the government playing a negative role. Then the Deputy Commissioners issue Permanent Resident Certificates to the illegal Bangladeshis routinely and mechanically without verifying the authenticity of the claim. The election officers enter the names of the Bangladeshi foreigners in lieu of petty bribes demolishing the legal and Constitutional sanctity. The supply officials issue them BPL/ration cards though such ration cards should be limited to the citizens only. The electricity officials give electric connections without even raising a sceptic eyebrow and do so even on encroached land completely disregarding the fact that he is a suspected non-citizen and that such connections are illegal on encroached lands. The principal of an educational institution gives the children of the illegal Bangladeshi admission in their institutions. The Circle officers mutate their names in the land either purchased or encroached. The passport officials issue passport to the illegal Bangladeshis at supersonic speed by taking bribe openly while to grant the same to the indigenous persons, they use delay and harassment as a tool from extracting gratifications and so on. Complaints by local / indigenous people go unheeded and so, there is no action against these delinquent officials. The tragedy is, self interests get precedence over common/ national interests. The sense of patriotism has dried up in the heart of everyone. That is why, when the indigenous people fail to get their job done in years together that of a Bangladeshi is done promptly and within a day or two. Then who is not guilty amongst the whole lot of the Assamese/indigenous society of protecting the Bangladeshi and sheltering under hypocrisy? And it is the very Assamese people who launched six year long agitation on foreign national's issue during 1979 and 1985 which cost the society 855 *Swahids'* lives and indignities to our mothers and sisters and further, the State had moved 50 years backward in the realm of economic and industrial development under the impact of the said agitation. The Government, where it is not actively involved, takes the role of helpless spectators. The so-called intellectuals who profess patriotism and intellectual guidance and receive choicest honour of the society slips conveniently and play the role of sleeping dogs when it comes to doing what they profess to be. **So, if the illegal Bangladeshis have grabbed the lands and the jobs of Assam, it is not one section but all the sections of the society who are guilty of selling the safety and security of themselves and of the state.** Thus, there is no point blaming the government alone for the catastrophe that has befallen Assam. The truth is that all of us are equally responsible for the malady and the tragedy. Then, who is to bell the cat? Who is to play the role of a messiah of a sinking and dying people? It is high time for introspection.

11.8. The good old days have long changed. In fact, the whole old order has vanished in the infinite sea of invisibility. To survive in the new order, life has to be geared to the present order. The changes have affected Assam and her pristine people violently. The violent changes in Assam have manifested in the form of irretrievable infiltration from Bangladesh. In fact, Assam has been reduced to a sprawling dumping ground of the millions of Bangladeshi with an incredible official patronage. Crushing pressure on land and population has threatened to snatch away the lands and the right over land from the indigenous people of Assam. Assam's misery is that India is one democracy but there are two sets of Law-one for Assam and the other for the rest of India. Discrimination against the people of Assam has been made to look innocuous. In fact, the governments' mission of protecting and sheltering the illegal Bangladeshis has received so overwhelming precedence over that of the indigenous people of Assam. In this sad milieu, Assam has been the victim of discrimination. This inauspicious trend has endangered the very identity of Assam and her pristine people, let alone protection of their land right. Thus, the encroachment on land and increase of the immigrant population in geographical progression have become so indefatigable that a do or die situation has come for the indigenous people. A silver lining in the dark cloud is that there is still time for the indigenous people to take cognizance of the truth, rise from their eternal sleep, unite and reorganize themselves to fight the devil that is ready to devour them.

Government of Assam on its part must rise from its sleep to fight the evils of illegal Bangladeshis and the mega lethargy and indolence of the indigenous people with a sense of patriotism.

Let it be inspired from the words of N. Hale, "*I only regret that I have but one life to lose for my country*". This of course applies to one and all the Government, the bureaucrats and the people at large. So everyone must rise to the occasion and be prepared to be vanished in the sea of invisibility if their inaction continues. This is the writing on the wall which, if not read and followed, shall hasten the fall of everyone.

Chapter 12

“Dawn does not come twice to awaken a man”

-Arab Proverb

“Error like straw, upon the surface flow’

He who would search for pearls must dive below”

-Dryden

Highlights of the Recommendations

12.1. So, here we have reached the end of our journey. Within the constraint of the short spell of time that we had been mandated, we can say that we have traversed rather a long distance. And yet, we cannot and do not claim that we have walked the full distance to attain the goal fully. The journey chequered and soured as it proved, particularly in the context of the non-participatory stance of its Member Secretaries as also of the near non-availability of the Nodal officer, was nevertheless exciting and enlightening for the Committee and presented before it a daunting and challenging task which the committee had accepted gracefully. The Committee can, therefore, say with conviction and satisfaction that in making its journey, it had spared no pains to say candidly and forthrightly without fear or fervour for anyone, inspired by the cause of protecting the land rights / the identity of the indigenous people of Assam.

12.2. The Committee has no hesitation to say that the threats to the land rights of the indigenous people of Assam are real and their sources of origin are both external and internal. The gravest menace that can be undoubtedly rated as the first and foremost and, therefore, needs to be solved with topmost priority on a rather emergency footing, is the ceaseless streams of infiltration of the illegal Bangladeshis poised to eclipse the very identity of Assam, let alone that of the Assamese or the indigenous people of Assam. The very first requirement to tackle this menace is to take cognizance of its real gravity and then to adopt measures to prevent the perennial streams of infiltration from across the Indo- Bangladesh international borders. As we had emphasized time and again, the encroachments on all classes of land of Assam is pre-planned, well-organized and methodical. The of Assam’s land number millions and they are all illegal Bangladeshis who threaten Assam’s identity to be engulfed and that of the indigenous identity to be swamped lock, stock and barrel, in the near future. While to prevent further infiltration, the Indo-Bangladesh International Borders via Assam, Meghalaya, Tripura and Mizoram must be sealed off completely and effectively, to get all encroachments of land vacated, the illegal Bangladeshis must be detected and deported and their names illegally entered in the electoral rolls deleted. To deport them, the Government of India is required inescapably to sign a Repatriation Treaty with the Government of Bangladesh immediately. The Committee recommends that the Government of Assam rises to the occasion to take up strongly and effectively with the Government of India, so as to make it realize and accept the menacing reality that Assam is confronted with, and completes sealing off the remaining 268 Kms or so of the Indo-Bangladesh Borders effectively as has been done in case of the international boundaries with Pakistan in the Western Front and deport the millions of the illegal Bangladeshis still living in Assam by signing with the Government of Bangladesh a Treaty of Repatriation to take back the

millions of illegal Bangladeshis let loose in Assam by them. In other words, the Government of Assam should make the Government of India do what it is required Constitutionally and statutorily to do.

12.2.1. So far as the internal factor encouraging infiltration of the illegal Bangladeshis in to Assam is concerned, the indigenous people must be made aware that it is their culture of aversion to hard work, love for ease and dependence on the illegal Bangladeshis in their day-to-day living including cultivation of their own land which encourages the illegal Bangladeshis to thrive in Assam. To make them aware of this grave deficiency in their work culture, the Government of Assam should open a Special Branch under any Government Department to launch a series of systematic awareness programmes until the habit of dependence of the illegal Bangladeshis is transformed. This will entail sustained programme with adequate manpower and budget for providing all necessary infrastructural supports to to the programme.

12.2.3. Due to operation of many adverse situations in the arena of agriculture such as heavy flood and siltation of agricultural land, erosion of cultivable and homestead land, fragmentation of land, depredations of elephants and extensive damage done to the crops and further, cost of bullock being prohibitive etc, cultivation is gradually becoming almost an abandoned profession. The absence of organized markets and exploitation by the middlemen and mafias, their harvests, particularly during the seasonal glut have been turned to be unsalable commodities- a situation that has led the peasants to commit suicide. Therefore, a series of effective programmes, that is, a policy of regular afforestation to replenish the dwindling forest areas as also to restore their natural habitats to the herds of elephants, effective anti-erosion and anti-flood measures to protect the crops against ritualistic damage caused to the crops due annual flood and erosion ,setting up of organized markets free from the mafias and middlemen with cold storage facilities to assure the cultivators of their due prices should be considered as the pre-requisite for protecting the rights of the indigenous people of Assam over their land. (i) **To seal off effectively the Indo-Bangladesh International Borders vs Assam, Meghalaya , Tripura and Mizoram so as to stop fresh waves of swarming infiltrators** encroaching upon new tracts of land. The Government of Assam should take up with the Government of India that the International Borders with Pakistan in its western front was sealed within three years between 1988-91 with high rise walls, flood lights and thickly posted armed guards. Assam has only 268 Kms of borders with Bangladesh to be sealed off and it has been left open even after three decades of signing the Assam Accord in 1985, though the GOI had lost its breath to amend the Indian Citizenship Act, 1955 to implement the decision of the Accord to grant citizenship rights to those illegal Bangladeshis who infiltrated in to Assam on or before 24 march 1971 and had also protected the illegal Bangladeshis by enacting an Un-constitutional Act called IM (DT)Act, 1983 which was struck off by the Hon'ble Supreme Court of India on 12 July, 2005 on the ground of its being ultra vires the Constitution of India.

(ii) The topmost task of the Government of Assam at this juncture is to detect the illegal Bangladeshis who had infiltrated in to Assam on or after 25 March, 1971 and segregate them from those who came before that cut off date and became Indian citizens by virtue of infiltrating before 25 march, 1971, where necessary by taking the help of the latter in identifying the former.

12.2.4. In view of the unassailable hardships in pursuing agriculture as a profession by most of the cultivators of Assam, the trend is that agriculture is metamorphosing in to an abandoned profession of most of the indigenous cultivators of Assam. Now, instead taking constructive measures to help them tide over their difficulties, if the Government of Assam takes advantage of their adversity and takes away their land right on the pretext of their not cultivating the land continuously for 10 years and on the ground

of the land being “unfit” for cultivation by reclassifying the land as a non-agricultural land, as has been done under the provisions of Section 4(1) of the Assam Agricultural Land (Regulation of reclassification and transfer for non-agricultural Purpose) Act, 2015. As we have already said, this Act is highly detrimental to the protection of the rights of the indigenous people over their land and it seems to have been enacted to benefit the trading community which should, therefore, be annulled in the interest of the indigenous peoples’ interest and security.

12.2.5. Apart from the unsealed Indo-Bangladesh international border through which regular infiltration from Bangladesh take place, there is a human factor that facilitates facile infiltration from Bangladesh into Assam. This human factor relates to corruption at the level of international borders. It is a public knowledge that the borders which are guarded by Para Military Forces including the BSF, illegal Bangladeshis find their easy way into Assam by bribing the Border Security Forces. If, what is reported has any element of truth, it is stated that one has only to pay Rs. 200/- to 500/- or so to the Security Forces per head of infiltrating Bangladeshis. The Committee recommends that the international borders including road and river ways not only be completely and effectively sealed but also guarded by Security Forces made up of, in addition to the BSF, CRPF, Assam Rifles, ITBP and a percentage of Assam Police so as to minimize the element of corruption at the internal border levels.

12.3. Ban on Transfer of Land in any form from a Citizen to Non-Citizens, Agricultural Land for non-Agricultural Purposes, from Indigenous to Non-Indigenous and from Protected Class to Non-protected Class of Persons: The question of putting restrictions on transfer of lands in any form from a citizen to non-citizen, from an agriculturist to a non-agriculturist, from an indigenous to a non-indigenous person and from a person belonging to a protected class to one of the non-protected class under Chapter X of the ALRR, 1886 has been discussed and justified by the Committee. The Committee, therefore, re-iterates and recommends that transfer of land in any form to those classes of the people should be either banned or strictly restricted as the case may be. So far as transfer of land from an indigenous person of Assam to a non-indigenous Indian citizen is concerned, there should not be any question of allowing transfer of agricultural land. All that needs justifiably to be allowed is to purchase a residential plot of land so far as it is needed to carry on the profession. It is also important to note that the Indian citizens residing here in Assam with a view to carry on their profession is also an indigenous person in his home state where he has as much right to acquire land as an indigenous person has in Assam. Every state has its first duty to provide land to its indigenous citizens first. In any case, the Committee does not recommend any grant of government land to these non-indigenous Indian citizens while even in acquisition of lands from private citizens some kind of a control mechanism should be devised so as to protect the land rights of the indigenous people as also to prevent concentration of land in the hands of the moneyed class doing business here.

12.4. The Land Policy and the Committee’s Recommendations: The Committee had minutely gone through the (i) Land Policy, 1989 (ii) The draft Land Policy, 2016 presented to the Committee for its comments So far as the existing Policy of 1989 is concerned; we have recorded our comments against each and every clause of the Policy. We have done the same thing in regard to the draft land policy, 2016. **Naturally, the suggested Clause wise changes have to be taken as our recommendation on each of the issues incorporated therein.** We, however, found that the said methodology did not leave full scope for commenting on or suggesting new measures which were found lacking or inadequate in the existing policy and the draft Policy. In order to cover up the gap we had suggested additional measures elaborately covering most of the arenas required to be governed by an ideal land Policy , if only to move with the changed time and situation. Therefore, our comments

articulated in Part 3 of the Chapter 3 may be taken as the recommendation of the Committee on those subjects or areas.

12.5. Administration of Char Areas (Chapter 4) : The Committee has very elaborately and exhaustively dealt with the grave problems associated with and stemming from the non-administration of the vast char areas extending from Sadiya to Dhburi by the Government of Assam (GOA) and the predominance of habitation in those areas by the illegal Bangladeshis or those of the Bangladeshi origin who have been later garbed as citizens of India , thanks to the Assam Accord, 1985 and the Government of India's overenthusiastic action to amend the Indian Citizenship Act, 1955, while leaving all other issues pertaining to safety and security of the indigenous people of Assam including sealing off of the Indo-Bangladesh border, detection and deportation of the illegal Bangladeshis infiltrating in to Assam on after 25 March, 1971 unsolved.. Be that as it may, we reiterate here that the Government of Assam extends its administration to the vast char areas and takes strong steps to retrieve these lands from the inextricable clutch of what is known as the omnipotent *Dewani* or *Matabbar* who have become the virtual/ real land owner and rule their empire. The Government machinery must also, be geared to take over the administration of the char areas from the *Matabbars*, detect and deport the illegal inhabitants/ encroachers therefore and after identifying the permanent Chars and doing cadastral survey there, the transitory Chars be totally freed from the human habitation to make it environment –friendly, reduce the chances of erosion of new / permanent villages consequent on the obstructions created due to dense habitation in the char areas. In order to retrieve the environmental balance, there has to be pursued a policy of afforestation in the Chars made vacant as a result of eviction of encroachers and inevitable deportation.

The moot point is that all the points and suggestions made in Chapter 4 should be taken as our recommendations which need to be implemented if the land rights and the identity of the indigenous people of Assam have to be protected in action rather than on paper.

12.6. Eviction of Encroachment of All Classes of Land of Assam: One of the most important areas of administration of land in Assam has been the encroachment of the vast areas of land settled with the religious and charitable institutions of public nature including the Satras, temples, thans and other religious institutions. These lands need to be retrieved and protected by taking special measures. We have discussed the various problems connected with the management of the satras and the temples and also made our specific recommendations in the appropriate chapters. Here we wish to emphasize without repeating what has been stated already, that the history of Assamese culture and heritage is inextricably bound by the fortune of the satras and the temples. The Committee suggests that special protective measures to retrieve the vast areas of the encroached land as also to protect the satra and temple population needs to be taken with special attention

12.7. Modification of the existing land laws/ Enacting New Laws: The committee has dealt with the functional efficacy of the existing land laws and, where necessary, suggesting amendments, to such laws. The Committee, however, would like to re-iterate that more than the lacunae, loopholes or shortcomings in the laws, it is the non-enforcement of the existing laws that have basically stemmed the rots from. What is the utility of enacting laws if they are not implemented? It is certainly not passed for keeping it as a mere show piece or simply as an eye wash to hoodwink the people. It is meant to serve the needs of the people; to redress the grievances of the people. It is a sad commentary that the government authorities are inclined to wash off their hands once the law is passed. Laws serve the needs of the society if they are enforced to attain the goal. The experience of the Committee has been

that non-enforcement of law is a rule and implementation is only an exception. Again, even more distressing as it is, there is no supervision, no monitoring and control and no explanation by the senior officers to seek explanation for non implementation of the wholesome provisions of the law. A culture of pushing the buck to others has been ingrained in the government machinery. There is no system of reporting back. The land records remain without ages. The resettlement operations have gone by default over more than six decades and where it had been done, the stake holders were not given their records of right. The administration has fallen victim to a kind of inertia to be retrieved from which it would require a Himalayan effort to do which the government of Assam must refurbish itself physically and mentally. And if the government fails to rise to this historic occasion, there may not come another opportunity to do it again. The committee recommends that the Government of Assam gets this serious matter inquired in to by a High level Inquiry Committee for suggesting concrete measures to ensure that every law is enforced strictly and that non-enforcement is taken as a serious lach on the part of the responsible officers which should attract punishment.

12.8. Ensure Implementation of the Land Reforms Measures: The Committee in particular would like to stress that the progress of implementation of the land reforms enactment leaves a very wide gap and between the needs and the deeds. There has not been prepared even a full list of indigenous landless persons of Assam, let alone the up to date register of total surplus land gained from the implementation of the Fixation of Ceiling on the land holdings Act, 1956 or the Assam (Temporarily Settled Areas) Tenancy Act, 1971 or the other such Act. This only shows how serious the Government is in implementing the laws enacted by it. In fine, the Committee recommends that all the observations and suggestions made by it in the relevant Chapters be implemented fully and seriously

12.9. Wipeout the Culture of Habitual Indolence and Dependence on Illegal Bangladeshis: We have also recorded our very special feelings and observations on certain very sensitive and core issues in chapter 11, which touches upon the vital and fundamental aspects of matters in the realm of protection of land rights of the indigenous people of Assam. The problem of indolence and dependence on the illegal Bangladeshis and aversion of the common people for hard work as also their being succumbed to a petty hob-culture in preference to independent professions, small or big, as mentioned in the Chapter is an age long, rather a cancerous malady which needs prolonged and serious treatment. As stated elsewhere, a series of statewide massive demonstrative and educative programmes have to be launched to change the work culture of the indigenous people so that the indigenous people as a class are converted in to a Self-dependent class of people. These observations and recommendations have been made by the Committee with deep insight in to the whole gamut of issues revolving round their culture and conduct. This would call for in-depth attention and treatment at the levels of the government and the people. It is hoped that the government of Assam would listen to our voice with equal attention and seriousness and seek solution in these endeavors.

12.10. The Committee had occasion to refer to certain anomalies pointed out in the Report of The Assam Land Reforms Commission (Dwerah Commission) dated 28th September, 1981. This Committee had gone into the Report of the said Commission and recommends that the observations/recommendations made therein be implemented even now, if not already done, so far as these are related to reforms of the loopholes or the anomalies referred to therein.

12.11. The above are the highlights of some of the Committee's recommendations on certain issues, which in the judgment of the Committee, are of fundamental importance. While the recommendations

made by the Committee against each Chapter are scattered all over the Report, the Committee, in order to avoid repetition keeps it confined to some of the highlights which demand repeated attention of the Government of Assam. The Committee feels that all these recommendations are of equal importance and success of one is dependent on all others.

12.12. Conclusion: The Duty of the Government of Assam: The Committee has done its part by doing what it was asked to do. It had taken pains to trace out the roots of the malady that have threatened to swamp not only the land rights of the indigenous people of Assam but also to eclipse their very identity of the indigenous people of Assam. Sadly enough though, this imminent crisis of identity of the indigenous people of Assam has remained still invisible in an encircling gloom. It is to bring this lurking crisis to light and draw the sharp attention of the people at large, and more so, of the Government of Assam that the Committee has dealt with the whole host of the problems afflicting Assam rather exhaustively. However, all will be lost, if the Government of Assam, instead of giving at least some of our recommendations a fair trial, treat it, as a spareable wastage. Be that as it may, we would like to conclude, with a wise Arab Proverb: "***Dawn does not come twice to awaken a man***".

Yes,! A second opportunity to serve a great cause may not visit the Government of Assam again. The Committee can only hope, that the Government will read the writings on the wall and also that the pains the Committee has taken, will bear fruits, meet the aspirations of the people and reward the committee's efforts.
