

Institutional dissonance in forest management in Meghalaya, India

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Abstract:

In the Meghalaya state, located in north eastern part of India, majority of forests are owned by the 'community' and not the government. Despite this, the management of forests is influenced by a complex set-up of customary and government imposed regulations. Since last decade, several efforts have been made to regulate and control timber trade both in the name of protecting people's livelihoods and environment, but the desired impacts have not been achieved. There are two main views to address this problem: one view posits that in the absence of effective alternative, the community-based management needs to be strengthened. The other school argues that the customary arrangements of forest management need to be replaced with formal 'state supported system'.

Drawing from review of literature and recently concluded field work, I argue that neither view is based on critical empirical assessment of the role different institutions involved in the management of forests in Meghalaya. This is because the problem is neither with the community-based management nor with the state imposed regulation for management of forests. The current situation has resulted from the absence of any management due to conflicting interests of different institutions in benefiting from commercialization of forests. This has been masked by the debates on failure of community-based forest management in Meghalaya. The problem, therefore, is that of 'institutional dissonance', resulting from layering of incongruent institutional structures. In the case of Meghalaya, there are three such institutions which mediate forest use through a set of interacting and overlapping rules and regulations. They are: state forest department, forest department wing of the district councils and the traditional village (or cluster of village-based) organizations. This paper provides an overview of how conflicts between these three actors have led to current state of affairs in Meghalaya.

KEY WORDS: *Community forestry, Timber Trade, Institutions, Meghalaya, India*

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INTRODUCTION

'The forest belongs to the people. We have the right to manage and use them; still we cannot use the way we want to earn income from it. Due to ban imposed by Supreme Court the value of timber has declined, many people don't care about preserving them-A village Headman

'The forest in our village is owned by a person who lives in Shillong. We do not own it, but lease it from him. We pay tax to Dorbar to extract fuelwood. Often district council also charges us royalty'-A villager

This article has originated from my work on a project to understand the contribution of forests in livelihoods of the rural people in Meghalaya state of India. The project aimed to assess how measures like increased access to markets, credit facilities and value addition etc can improve income from forests as well as promote forest conservation. In Meghalaya, unlike many other parts of India, majority of the forests are owned by the community, which is legally recognized under special provisions of the Constitution of India. The use and management of forests is mostly governed under a customary system by different community-institutions. Given such a situation of community-based management, the project assumed that enhancing income opportunities from forestry activities will provide further incentives to the community to conserve the forests owned by them. This was also based on with current thinking in the forestry sector that increased ownership and greater control over management of forests can help communities earn income and contribute to sustainable forest management (RRI, 2006).

However, during further investigations of dynamics of community ownership and management, I was stuck by myriad of different replies to simple questions like-Who owns the forests? Who has the right to use? How is the forest use regulated? How are the benefits from trade of forest products distributed? Contrary to my understanding of community ownership and control of forests, as reported in the literature, I came across diverse range of views on forest ownerships, control and management. The responses revealed a complex land ownerships and use system, politics and conflicts to control income from forestry activities both within community as well as with the state. The common concern across different groups was that people are no longer benefiting from forestry activities and the community-based management of forests has eroded severely over the years. The consequences, on one hand, have been indiscriminate exploitation and increase in privatization of forest lands. On the other hand, due to failure of the community-institutions to regulate forest use and trade, in the past decade, the state has imposed several regulations increasing its control over community-owned forests.

Further review of literature revealed that prior to 1996 trade of timber and associated enterprises were major source of income not only for the people but also for the community-institutions(Saxena 2002). This, however, as some commentators also claim led to large scale unregulated and indiscriminate harvest of timber resulting in major loss of forests as well as increase in privatisation of communal forests(Dasgupta and Symbieh 2006). Concerned with the increase in loss of forests, the Supreme Court of India passed an order in 1996 to ban unregulated timber felling in all parts of India including Meghalaya. The court also passed specific

orders to regulate commercialisation of forests in Meghalaya (and other North Eastern states of India). Following the precedent set by the Supreme Court, in the last decade, both the state forest department and community institutions have imposed several rules to regulate use and promote 'scientific' management of community-owned forests (Upadhyay and Jain 2004). But, despite all these developments the desired impacts of improved forest management and local livelihoods has not been achieved (Ramnath 2002). Also, in recent years, several development projects have invested in supporting forest-based income activities. But, their progress has met with several problems, including lack of support from community-institutions.

A complex set of factors have been ascribed to the current situation, the prominent being inability of different institutions i.e., the state and the community-institutions to regulate timber trade and promote sustainable management of forests (Saikia 2005). Since communities own majority of the forests and their use is regulated by the community-institutions, much of the responsibility of unregulated timber trade and forest loss has been put on them. The proponents of this view claim that the community-institutions are not adequately oriented to deal with the commercialization of forests and that there are vested interests and conflicts within, which undermine their effectiveness. On the other hand, the forest owners and community-institutions blame the state for current state of affairs. They argue that the Supreme Court's order is mainly aimed to provide the forest department an opportunity to control the forests owned by the people. By imposing regulations to manage their forests in 'scientific' manner, the court has failed to appreciate the traditional management systems of the people. And more importantly, this is violation of their rights to manage forests owned by them to earn income as per special provisions of the Constitution of India.

Based on these arguments, there are two opposing views on how to address the problem of unregulated timber trade and forest loss in Meghalaya. One view posits that in the absence of effective alternative, community-based management of forests need to be strengthened (Poffenberger 2005). They argue that community-based management has the potential to adapt to the requirements needed to regulate timber trade and can help achieve the twin objectives of improved income opportunities from forestry activities and forest conservation. Hence, they call for support for community-institutions to continue to regulate use of forests as well as timber trade. There is other school of thought, which argues that the customary arrangements of forest management need to be replaced with more formal system due to the changing requirements of resource management and development needs of the people (Dutta 2002; Sharma 2004).

STATEMENT OF THE PROBLEM

Institutional dissonance

I argue that neither view, as described above, is based on critical empirical assessment of the role of community-institutions in management of forests in Meghalaya. This is because the problem is neither with the customary ownership of forests nor in the ability of the community-institutions to regulate timber trade. I hypothesize that it has resulted from the absence of any community-based management due to conflicts between different institutions to benefit from timber trade, which has been masked by debates on relevance of community institutions.

The divergent interest of competing groups within community-institutions and also between community-institutions and the state is one of the main reasons for the current state of affairs. The problem, therefore, is what Bromley (1985) describes as that of 'institutional dissonance', resulting from layering of incongruent institutional structures and interests. Such dissonance arises because of conflicting interests and means adopted by different institutions to achieve the overall goals of resource management. In Meghalaya, there are three such institutions, which mediate forest use through a set of interacting and overlapping rules and regulations. They are: state forest department, the district councils and the traditional village (or cluster of village-based) organisations, as described in the subsequent sections.

Although, the community owns forests, the use and trade of forest products is influenced through varied, complex and overlapping rules and regulations set up by the forest department, district councils and traditional institutions. However, not much is known about how are these exercised and how they shape outcomes? For instance, it appeared that the access and control of forest product trade, in several villages I visited, was often contingent upon whose interests are empowered at the local level due to the diversity and varied interpretations of rules and regulations of customary systems. Moreover, the complexity and variations revealed that these interests are not fixed or pre-given, but are forged over time through both endogenous and exogenous processes. However, most of the information available on the issue is either selective analysis of customary forest management practices (mainly sacred groves) or description of forest condition and use. They do not provide adequate insights into contestations over control of trade within community-institutions as well as between the state and the community. Most of the existing literature either glorify or condemn the community-institutions without adequately examining how they influence range of forest management outcomes.

Political nature of community-institutions

Most of the current literature on community-institutions in Meghalaya is based on the assumption that they are apolitical. I argue that community-institutions should also be seen as political entities, embodying relations of power and authority while seeking to maintain control over resources as well as their own existence. Such recognition of the political character of the community-institutions will help us in better understanding how and why they are able to provide (or not) effective management and regulate use and conservation of forests. The process of contestations, negotiation and adaptation both within as well as with the state and market forces of these institutions will help in explaining the outcomes in terms their appropriateness for forest protection and management in Meghalaya. Implicit in this argument is the fact that community ownership of forests is not a monolithic definition of property imposed on a landscape. But it functions as a differentiated array of controls in the form of resource access and management regimes. The understanding of competing interests to control can provide useful understanding of how interactions between variety of regulations, laws and management practices by community institutions and the state shape the use and conservation of forests.

Community-based management, customary tenure and timber trade

The third critical problem, which emanates from the previous ones, is that given such a scenario is community-based management of forests under customary tenure relevant to regulate timber trade to enhance income opportunities from forests and

promote conservation? To answer this question, I draw from Purcell and Brown's (2005) argument that there is nothing inherently fixed about community-based approaches. They caution that often the disappointment with the outcomes of such arrangement is not due to irrelevance of community-based management. But, they occur because the dynamics of changes taking place within such systems are not taken into account, as they respond to a number of internal and external drivers of change. My own brief field visits revealed that there are cases where local community-institutions have effectively adapted forest management practices to the requirements of timber trade in the same way, as there were many where this did not happen. Hence, the key issue is to critically analyse the complex and dynamic particularities of each situation.

It also resonates with the contemporary literature from other developing countries (e.g. in South East Asia, Africa and Latin America), that the benefits of such systems need to be empirically accounted for, rather than praised or condemned en bloc, as agents of, or obstacles to sustainable management of resources (Neef, Sangkapitux, and Kirchmann 2000; Berry 2004; FAO 2006). For instance, in case of community-owned forests management, Rangan (1997) points out that often it is not the ownership that determines the outcome but rather how access and control of resources are governed both by the local institutions and the state. The different agencies exercising control over such resources interact with local and state interests and patterns of authority in complex ways. As a consequence, the outcomes of resources management ascribed to the customary systems may actually be the consequence of contestations between different actors to control them rather than ownership and management systems per se (Lesorogol 2005).

Similar concerns have been raised in some of the literature on timber trade and forest management in Meghalaya as well as other north-eastern states of India where communities own majority of forests. They argue that while in the rest of the country environmentalist, human right activist, social workers alike, are demanding that forests be given back (at least partially) to the tribals and local communities from the Forest Department. However, in the north-eastern states (including Meghalaya) this much acknowledged panacea of communal control over the forest resources against the State control appears to have completely failed to safeguard the forests. The question that is being raised is whether the communal control over the forests is in itself a guarantee to a reasonable economic and ecological security (Dutta 2002)? In case of Meghalaya, several scholars have pointed out the need for a critical enquiry of role of community-institutions in forest management (Nongbri 1997; Nongkynrih 2006).

To summarize, Meghalaya presents a case where community-based forest management practices have been gradually eroded over the years. One of the main reasons for this has been conflict to control forest management by the community institutions as well as the state. The main driver of this change, as attributed in the contemporary literature, has been timber trade leading to indiscriminate exploitation of forests. This has happened despite existence of a wide range of both customary and state-promoted rules and regulations, governing the use of forests and timber trade. Most of the contemporary research on the topic in Meghalaya focuses on description of the tenure system and community-based management without critically examining role of community-institutions in timber trade leading to the

current situation. In particular, there is knowledge gap on how community-institutions exercise control over conservation, extraction and commercialization of forests resources? What are instruments used by them to regulate commercialisation? What impacts these have on forest conservation? What makes destruction of forests so easy in Meghalaya as compared to other parts of India? And most important, in the given scenario, are community-institutions viable to protect as well as regulate commercialization of forests in Meghalaya?

THE STUDY AREA

General description

Meghalaya is a small state located in north-eastern part of India. The word 'Meghalaya' literally means 'The Abode of Clouds' in Hindi and Sanskrit. It is a hilly strip in the eastern part and is one of the smaller states of the country with a total area of about 22,429 km². The state is bounded in north by another Indian state of Assam and by Bangladesh in south (Figure 1). The altitude of varies between 100 to 1950 m above mean sea level (Roy and Tomar 2001). A unique feature of the state is that the certain parts receive the world's highest rainfall (about 12,000 mm per annum). After the independence of India in 1947, the major parts of the current state of Meghalaya were under the administration of Assam state for about 25 years. The current state of Meghalaya was carved out as a separate state from Assam in 1972. The general administrative structure of the state is described in the subsequent section.

The state has a population of about 2.3 million, with a low-population density of over 100 persons/km² in comparison to all India density of 324 persons/ km² (GOI 2001). The major population (over 80%) of the state comprises of 'scheduled tribes'². The main tribes in Meghalaya are Jaintia, Khasi and Garo. The state has seven districts, which are mainly created along the lines of major tribal population in that district. They are Ri-Bhoi, South Garo Hill, East Khasi Hill, East Garo Hill, West Garo Hill, Jaintia Hill and West Khasi Hill. One of the unique features of the tribes in the state is that they follow a matrilineal system where lineage and inheritance are traced through women.

The state has nearly 13% of the total geographical area under cultivation (MSWC 2006). Almost all the tribes of Meghalaya solely rely on agriculture as their main occupation. Khasi and Garo tribes also practice shifting cultivation (locally known as *Jhum*). Agriculture is characterized by limited use of modern techniques and low productivity. As a result, despite the vast majority of population engaged in agriculture, its contribution to total income is low and most of the population engaged in agriculture remain poor (Darlong 2004). The state is also rich in minerals like coal, limestone and uranium. In the past decade, coal mining has also become an important source of livelihoods of the people. The ownership of mineral resources like forests, and unlike other parts of India, lies with the people as per the special provision granted by the constitution.

² Scheduled Tribes are communities that are accorded special status by the Constitution of India. The criterion followed for specification of a community, as scheduled tribes are indications of primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large, and backwardness (Ministry of Tribal Affairs, Government of India).

According to the latest State of Forest Report of India (2003), the total forest area of Meghalaya is 16,839 km² which corresponds to about 75% of state's geographical area. As shown in Figure 2, over 60% of the total forest is classified as open forest(FSI 2003). Of the entire forest area, only 6.56% is under the control of the state(MFD 2006). The remaining forests are managed under a complex arrangement of the community-institutions(Nongkynrih 2006). There is absence of any systematic cadastral survey to demarcate the boundaries of forests except for those owned by the forest department, which has been often reported to lead to conflicting claims of ownership(Nongbri 1997).

Given such a situation, it is important to understand the general land tenure system and institutional structure responsible for regulating it, before describing the forest ownership and management system. This is because the forest ownership and management is closely linked with it. Hence, the subsequent section briefly dwells upon the land tenure system and institutional structure before discussing the key issues related to main question of the research. For the purpose of this research, I will narrow down the focus to the Khasi hills of the state from here after, as the significant changes in the tenure and forest conditions in the region provide a relatively better opportunity for in-depth study.

Land tenure system

The land tenure system varies significantly among the three tribal groups i.e. Garo, Khasi and Jaintia and there are variations even within these groups(Tiwari, Barik, and Tripathi 1999). The commonality in the tenure system among all the three main tribal groups is that the traditional and unwritten customary laws are applied and followed in large measure. Majority of the land ownership and transactions is neither recorded nor any cadastral survey has been conducted except in small portion in the plains of West Garo hills (Karna 2005).

At a more general level, the land ownership falls under two standard classifications of communal and private (Das 1990). Communal land comprises of such land which is meant for the exclusive use of the village community, traditional chiefs, priests and also land which is considered as the habitat of gods and deities (e.g. sacred groves). Communal land is inalienable in nature with occupancy-rights reserved for members of the community only. Private lands on the other hand are in the private possession of the owners concerned. These could be owned by individuals or clan. Within each of these two broad categories, there is further categorization based on the use of land (particularly forests and agriculture), user rights, religious beliefs etc. For instance, the Land Reforms Commission (LCR), set up by the Government of Meghalaya in 1973 identified more than thirty-five categories of land and forests in the Khasi hills alone (Rymbai 1974).

The first elaborate documentation of land tenure system of Khasi hills was done by Gurdon (1987). The two broad categories of land based, on the ownership, as mentioned above, in the Khasi hills are known as:(i) *Ri Raid* and (ii) *Ri Kynti* (Haloi 1984). The *Ri-Raid* or communal land is allocated by the village headmen/council/chief to the individuals for use without the right of ownership. These lands could be forest or non-forest lands and are given for constructing a dwelling or for cultivation and other economic purposes without paying any tax/money. Traditionally, if a person keeps such a piece of land granted to him/her in

disuse for three consecutive years, then he/she loses the right to retain the land under occupation, and it can then be allocated to someone else (Cantlie 1974). However, over the years this regulation has not been strictly enforced. The other classifications of lands within *Ri-Raid* include land allocated to priests, for religious purposes, for water and pasture, village forests etc. Traditionally, the ownership of such lands as Nongbri (1997) points out is not vested in the hands of those by whom the land is used. But, it belongs to the clan or the village. However, this has changed in practice over the years and in all the three tribes it is reported that often those either given the land or vested with the authority to manage the land have claimed the ownership resulting in privatization of communal lands (Goswami and Majumdar 1972).

Ri-Kynti or private land is sub-classified as: ancestral land and self-acquired land. The ancestral lands, if not divided, are by tradition inherited by the youngest daughter. In Khasi-Jaintia set-up the maternal uncle and the brothers are the decision makers in use and management of land. When the ancestral land is not divided among any lineage for a number of generations and keeps passing down automatically, then it acquires the status of *Ri-Kur* (clan land). The self-acquired land is property solely of the person (male/female) who purchased it with his/her earnings. When it passes on to the children it becomes ancestral property for them.

Land administration: community institution and the state

Meghalaya has three tier administrative institutional structures, which influence the land ownership and management (including forests). At the apex level is the State Government (executive, legislative and judiciary) with constitutional powers to legislate and implement laws for the State. At the next level, are the Autonomous District Councils (ADCs or councils hereafter), which are also elected by the people and are responsible for administrative matters (including forests) as per the customs and traditions of the three tribes at the district level. Then, at the third level are the traditional institutions at the village or cluster of village level.

The unique feature of land administration in Meghalaya is the role of ADCs, which are mainly a form of local community institutions formally recognized and given specific powers for land administration under Sixth Schedule of the Constitution of India. The ADCs are responsible for enforcing one of the key guidelines of not allowing any non-tribal to purchase/own land in Meghalaya. The ADCs are the local self governing bodies, pointed by some commentators as parallel administration to the state government although having similar administrative structure (i.e. executive, legislative and judiciary) as the state. However, they administer within the confines of the Sixth Schedule, in which the powers and jurisdiction have been clearly spelt out separately from that of the state government. They can be compared to the pattern of division of powers between the Union Government and the State under the Constitution of India. These institutions are tribal-oriented and mainly comprising of elected and appointed representatives from traditional tribal institutions. Prior to independence of India, the traditional tribal institutions were mainly responsible for administration and management of the small provinces/petty states. However, after the independence these were brought under the umbrella ADCs after regrouping of the smaller princely states, though they continue to hold significant influence both at the village level as well as district. In this study, as mentioned earlier, I refer to both

traditional tribal institutions as well as ADCs as ‘community-institutions’. I will first describe the traditional institutions, then overview of ADCs and state government.

The land tenure system (and hence the forest management) in Meghalaya is mainly regulated by the traditional social-political institutions of the tribal groups. The Khasis have an elaborate local political structure influencing the control and management of land (Bareh 1967; Chowdhury 1978). In the traditional political system of the Khasi each clan has its own council known as the *Dorbar Kur*, which is presided over by the clan headman. The council or the *Dorbar* manage the internal affairs of the clan. The next level is of village, which has a local assembly known as the *Dorbar Shnong*, i.e. village *Dorbar* or council. It is presided over by the village headman called *Rangbah Shnong*. The inter-village issues are dealt through a political unit known as the *Raid*. The *Raid* has its own council, called the *Raid Dorbar*, presided over by the elected headman/priests known as *Sirdar/Lyngdohs*. Next in hierarchy is the supreme political authority known as the *Syiemship*. The *Syiemship* is the congregation of several *Raids* and is headed by an elected chief known as the *Syiem* (or the King) (Dev, A.K., and Sharma 2003). Figure 1 provides a representation of Khasi traditional institutional structure.

DETAILS ON HIERARCHY OF
KHASI TRADITIONAL INSTITUTIONS

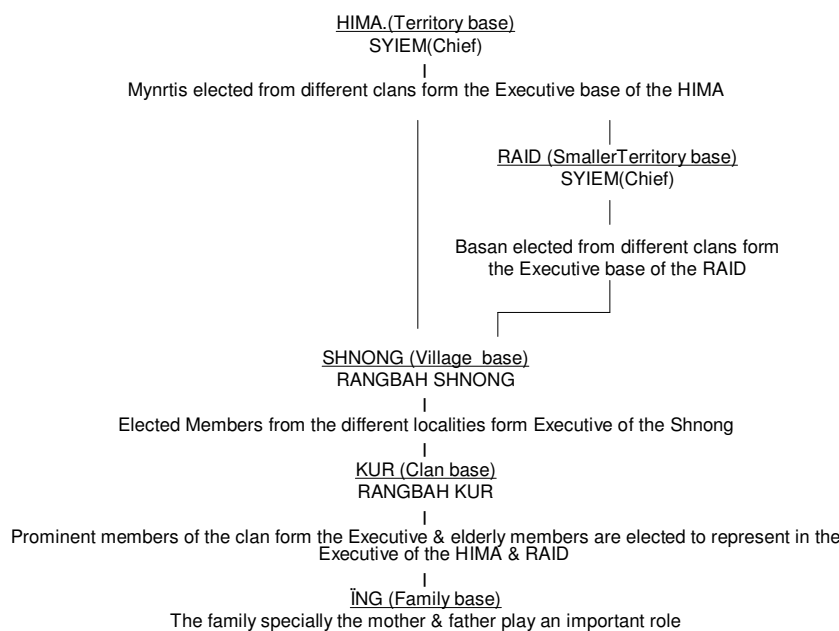


Figure 1: Khasi traditional institutional structure (Dasgupta and Symlich 2006)

Till the independence of India, Meghalaya, like some other parts of India, was classified in the category of ‘excluded or partially excluded area’ i.e. areas which were not under the direct control of colonial regime. The traditional tribal institutions, as described above, were responsible for administration of the different tribal groups. After, the independence in 1947, the Constitution of India acknowledged the special status of these excluded regions. However, instead of continuance of fragmented large number of small princely/traditional administration, the constitutional review committee recommended for a formal ‘umbrella’ autonomous agency (Bhattacharjya 1980). To protect the traditional practices of the people in Meghalaya in general and their land in particular, the Autonomous District Councils (ADCs) were created under

the Sixth Schedule of the Constitution of India. This was to give the tribal groups of Meghalaya (as well as other north eastern states) a semblance of self-rule by providing them greater control over local resources and protection of cultural identity. The United Khasi-Jaintia Hills Autonomous District Council and Garo Hills Autonomous District Council came into existence after the independence of India in 1952(Gassah 1998). At that time, Meghalaya was part of the state of Assam.

As Dutta (2002) points out, the fundamental reason of setting up of ADCs was to protect the tribes from more advanced members of the non-tribal communities (e.g. from Assam and other parts of India) and also to preserve their 'way of life'. The ADCs were created to regulate and oversee the traditional tribal political institutions and development activities, which affect the interest of the tribal population. They comprise of elected representatives and are empowered to make laws about land and management of forests (except those owned by forest department). Hence, the ADCs are a constitutional body to provide a formal set-up of administration over the traditional institutions.

As per the provisions of constitution, the election, appointments and decisions by the traditional political officers, ranging from the headman of village to *Dorbar* to *Syiem* have to be notified to and ratified by the District Council(Nongbri 2001). The district councils over the years in consultations with the traditional authorities have codified several laws related to land. Nevertheless, as Dutta (2002)points out, there are several aspects which are not codified and are subject to various interpretations and disputes.

In 1972, the separate state of Meghalaya was created by carving out the two districts councils of Garo and Khasi-Jaintia from Assam. A legislative assembly comprising of elected representatives of different political parties was created. This was done to provide further avenues for development of the tribal people through their own representative institutions with support from federal government. It is important to point out that despite the creation of separate state, the ADCs were allowed to exist. All the rules and regulations made by them now require the approval of the governor of the state of Meghalaya (Bhattacharjya 1980). Although, the jurisdiction of these institutions are defined under the provisions of different schedules of constitution, over the years quite often there have been overlapping and conflicting issues related to administration of land (including forests). After creation of the state, the public forests (about 10%) were brought under the jurisdiction of newly created state forest department.

This multiplicity of institutions, as described above, vested with varying degree of powers and overlapping and sometimes-conflicting authority has been ascribed by various scholars as one of the main reasons for lack of clarity over land tenure and forest management issues in the state. Bhattacharjya (1980) for instance, points out that one of the greatest weakness of the Sixth Schedule is that it does not spell out coordination of various activities of the district councils and the state government. The district councils often function independently of state. Similarly, the district councils have often been reported to take decisions without consultations with traditional chiefs. The district councils, which were created to protect the cultural heritage of the tribal people as well as facilitate their development, have been often reported to be in conflicts with the local chiefs(Nongbri 1997). The traditional

authorities still retain a strong influence and in many cases still administer and distribute land despite what should have been done through ADCs(Nongkynrih 2002). Some commentators even point out that the district councils have mainly been ratifying authorities as in majority of areas the traditional leaders still influence the use of land and forests(Tiwari, Barik, and Tripathi 1999). This situation led the National Commission to Review the Working of the Constitution set up in 2000 to point out that *'It could be cogently argued that in Meghalaya there are ... three competing systems of authority, each of which is seeking to 'serve' or represent the same constituency. The result has been confusion and confrontation, especially at the local level on a number of issues'*(NCRWC 2001).

As a result, on one hand, the representatives of traditional institutions such as the *Dorbars*, claiming historical legitimacy, demand restoration of their authority. On the other hand, the state and central government, while not directly questioning the validity of the traditional institutions, have been promoting debates questioning the relevance of these institutions in management natural resources in the state. In some cases, the state governments have promoted parallel village level institutions as well. This, as Sharma (2004) sums up, tug-of-war between these institutions has made the common people suffer due to lack of any long-term development initiatives by them.

Drawing from this debate in the subsequent sections, the role of community-institutions and state in regulating timber trade is discussed.

FAILURE OF COMMUNITY-INSTITUTIONS: KEY ISSUES

Forest ownership and regulations in Khasi hills

The forests area in Khasi hills vary from 60% to 88% of the total geographical area (FSI 2003). The forests in the region are owned both by the state forest department and the community/individuals, although, the state forest department owns only 4% of the total forest area. The forests owned by them are classified as reserve and protected forests and regulated by laws and acts similar to other states in India.

The second category of forests (more than 90% of total forest area), owned by community/individuals, is regulated by the laws made by the District Councils. The United Khasi-Jaintia Hills Autonomous District (Management and Control of Forest) Act, 1958 provides a broad classification of forests under the control of district councils(KHAD 1995). The main types of forests as classified by them are:

1. *Law Ri-Kynti* (Private Forest): These forests belong to an individual or clan or joint clans, which are grown or inherited by him or them.
2. *Law-Ri-Sumar* (Private Forest): These forests belong to an individual clan or joint clans, and are grown or inherited on village or common *Raid* land.
3. *Law-Lyngdoh*, *Law-Kyntang*, *Law-Niam* (Sacred groves): These forests are set-aside for religious purposes and are managed by the *Lyngdoh* (a religious head), or other person to whom the religious ceremonies for the particular locality are entrusted.
4. *Law-Adong* and *Law-Shnong*: These are village forests reserved by the villagers themselves for conserving water, soil and plants etc. for the use of villages and are managed by the 'Sordar' or headman with the help of the village *Dorbar*.

5. *Protected forest*: These are areas/forests declared protected by the District Council for the growth of trees for the benefit of local inhabitants under the District Council Act 1958.
6. *Green blocks*: These forests belong to an individual family or clan or joint clans and grow on *Raid* lands and are protected for aesthetic beauty and water supply of the town of Shillong and its suburbs.
7. *Raid forests*: These forests are looked after by the heads of the *Raid* and are under the management of the local administrative heads.
8. *Unclassed forests*: These are mostly private forests over which local village institutions retain control. They are mostly on the hills and are used by local inhabitants for *jhum* cultivation.

For each of these forest categories, the district council has set up rules and regulations to manage them. However, despite elaborate classification and rules to manage them, the district councils have not been able to achieve the desired impacts of regulating timber trade and protect the forests. Based on the review of the literature, this can be attributed to three key factors: emphasis on revenue collection rather than supporting sustainable management of forests, increase in state's control on community-owned forests directly or indirectly through imposition of various regulations over the years and most important, large area of forests still remaining under 'unclassified' category.

To elaborate further on these points: the rules and regulations of ADCs were to be originally based on the traditional practices of the people in the state. The ADC's forest department was created to provide further technical support to strengthen them. But, over the years, the ADCs started adapting the rules and regulations of the state forest department and drafted theirs in similar manner without actually having the capacity to enforce them. For instance, as Upadhyay and Jain (2004) point out that the 1958 Act defines forest as an economic exploitable resources. As per the Act, '*Forest mean and shall be deemed to be a forests, if in the area, there are reasonable number of trees, say, not less than twenty five treeed per acre, reserved or un-reserved or any other forest produce growing on such area, which have been or are capable of being exploited for purposed of business or trade*' (KHAD 1995).

Hence, most of the rules and regulations of district councils, following the state forest department, are oriented to generate revenue for themselves from trade of forest products rather than based on any traditional practices of the communities. The councils impose heavy royalty on timber extracted and traded outside the village boundary without providing any management or trade support to the people. This encouraged many forest owners to by-pass the regulations (Dasgupta and Symlieh 2006). It is also important to point out that in 1996, interpreting the provisions of the Sixth Schedule of the Constitution of India, the Supreme Court of India, questioned the legitimacy of councils to collect revenue from private forests, which is explained in the subsequent section.

Despite owning a small portion of state's forests, their control over the community/private owned forests have been reported to increase over the years through various laws imposed by the state and central government. After the creation of state, out of Assam in 1972, all the state laws of Assam, including those related to forest use and management (namely the Assam Forest Regulation of

1891) were made applicable in Meghalaya as well. Upadhyay and Jain, (2004) point out that these laws were made applicable in the state of Meghalaya in a manner that progressively augmented State's power either through the license system, revenue sharing or through their promotion as a competent authority to promote 'scientific management' in the state. This resulted in conflicts not only with the councils but also with the private forest owners. The role of state forest department has been particularly strengthened after imposition of ban on timber felling by Supreme Court of India, as described subsequently.

Another important issue, which as observed by some commentators, has been the existence of large areas of 'unclassified' forests either privately owned (by clans, domestic groups, individuals or organizations) or under the control and management of the village traditional institutions (*de facto* private forests). As per the 1958 Act, these forests are to be registered with the Chief Forest Officer of ADCs, giving the home addresses of all the people owning forest, together with the forest boundaries and other particulars. However, many chose not to register them and hence council had little control over these forests. Tiwari et al (1999) point out that, in practice, ADC's control on these forests is mainly limited to collection of royalty on the forest products exported outside their own area of trade. Some scholars have pointed out that the ADCs lack actual authority to impose anything on the people who own the forests, despite far-reaching powers to regulate the forest operations on private/community lands. In practice, the land owners have been doing what they wanted to do with their forests(Karlsson 2004).

Timber trade in Khasi hills

In order to understand why community-institutions have not been able to regulate timber trade in the state, it is imperative to understand a brief history commercialisation of forest products. Though, subsistence agriculture (mainly *jhum*) has been the mainstay of rural economy, it has been practiced on only about 10% of the land at any point of time in last three decades(MSWC 2006). Forests being dominant land use in the remaining area, contribute significantly to the subsistence and income needs of the people (Tiwari 2005). As a result, despite majority of the rural population engaged in agriculture, the forest products like timber, fuelwood, charcoal, NTFPs etc constitute significant portion of subsistence and income sources of the rural people (Darlong 2004). For instance, a study on the occupational composition of the people in the state found that almost 57% percent of the sample households in rural area were engaged in NTFP collection(CUTS 2002). Although, no actual estimate of contribution of forestry exists, several literature provide information on major forest products collected, their uses and distribution etc (Tiwari 2000; Bhatt and Sachan 2004; Tynsong and Tiwari 2004).

Unlike other parts of India, timber has been one of the major forest products traded for a long time within and outside the state. The large-scale commercialization of timber in Meghalaya, on which I will focus in the study, is a relatively recent phenomenon. It started gradually after the creation of new state of Meghalaya in 1972(Bhaumik 2003). It was at its peak about a decade ago (i.e. till 1996) and was predominant in Khasi, Ri-Bhoi and Jaintia districts. Though, the trade of timber for income was in practice for a long time, the transition from subsistence to commercial mode was mainly facilitated by creation of new state coupled with development of infrastructure and improved accessibility of forests(Nathan 2000). As Dasgupta and

Symlich (2006) point out, timber suddenly became very lucrative because of a rise in demand of timber from North East India in other parts of the country. This was also due to opening up of the state to outsider trades and businessmen after 1972.

Chakraborty (2000) quotes the *Sordar* of Diskiangpungsior village to further elaborate on this: '*Though timber trade started in mid 70s, trees did not fetch much price until late 80s. In 1973, I bought five forests when a tree used to fetch less than Rs 2, which rose to Rs 20 per tree in 1977. Few years later, when the price of trees grew (between Rs 500-1000 per tree) everybody just jumped into the tree-selling spree, and soon it became a booming business*'. One of the main reasons for increase in trade of timber was the declining productivity of *jhum* cultivation. As one villager explained to me, fed up with the low productivity, low income and lack of any surplus food from cultivation, people shifted to selling trees. Nongbri (2001) explains that many people sold trees from their forests not only to buy seeds, fertilizers or try out new crops but also to invest in houses. This sale of timber gave many remote rural families a rare opportunity to buy items of comfort (e.g. taxi or electronic goods), which was otherwise not possible from *jhum*. In such a scenario, a lump sum cash offer for trees, from either rich people of the village or from timber traders outside the state was a lucrative offer they could not resist.

The consequence of this transformation, as many commentators claim, was that many forest areas in the Khasi hills were then subjected to indiscriminate exploitation as in other parts of North East region (Ramakrishnan 1992). According to a report by Center for Science and Environment, a Delhi based NGO, the region was losing 31,700 hectares every year till 1996 (Chawii 2002). To provide an estimation of the volume of timber trade, Saikia (2005) quoting government data mentions that Meghalaya and three other states of North East provided over 70% of 'other timber' (excluding teak and *sal*) supply of country in 1993-94. Although, household estimates are not available, but as an indication of the extent of business, Nathan's (2000) study, through the data obtained from interviews of 24 villages, found that more than 85% households owned forests and sold timber as their main source of income.

This advancement of timber trade led to two important developments: increased rate of deforestation and of privatization of *Ri-Raid* or communal forestlands. The deforestation was further accelerated by lack of enforcement of any regulations either by the district council or forest department. Dasgupta and Symlich (2006) point out that although it may seem as though the state or ADCs regulated the harvest and trade of timber. But this system hardly ever operated, neither the permissions were sought nor regulations for harvesting were followed. The reasons for this failure, as pointed out in the previous section, included lack of acknowledgement of either council's or forest department's authority by the village chiefs or private forest owners. In addition to this, lack of coordination between ADCs and forest department, further undermined their authority to enforce regulations. This resulted in confusion over the actual authority to enforce regulations and in effect converted local village authorities to main decision-making bodies.

The lack of coordination between the agencies, as mentioned above, was not as much for regulation of timber trade, but for the share of revenues from royalty collected from it. As per the provisions of transit and other regulations/acts, the forest

department and councils shared the fees and other revenues from timber harvest and trade (MFD 2006). This in some cases contributed up to 70% of council's revenues (Dasgupta and Symlich 2006). However, there were cases when the councils gave the permit for extraction, but did not share the revenue with the forest department. The significant amount of timber revenue also prompted the local chiefs to by-pass councils and permit timber extraction from common forests to outsiders, who paid them large sum of money. The result was that most of the money from timber extraction either went to the councils or chiefs and outsiders earned profit by exporting relatively cheap timber. Chawii (2002) explains, that though a majority of people depend on forest for their livelihood, it is the power brokers, politicians and government officials who benefit most from timber trade. She quotes North East Sun, a magazine published from Delhi, that only one percent of the timber from the region is utilized by local communities. Local people who work for traders are contend with meager wages. As Nongbri (2003) puts it, there are huge sums of money involved and there is always a chief, clan leader, headman or landowner who is willing to part with trees from communal forests to make an easy money at the cost of their own people.

The very nature of timber trade also promoted indiscriminate exploitation of forests as well as local communities as it opened door to the non-tribal businessmen due to the 'contractor-politician-forest department' nexus (Karlsson 2004). Chakraborty (2000) quotes an important member of powerful *Syiem* clan to further explain the process: *'Many people may have forests but all of them do not have money, knowledge or expertise to exploit the timber resource. Timber operations involve cash to mobilize knowledge or expertise to exploit the timber resource. The timber merchants (locally called Malik Dieng) have the money and know the tricks of logging business. They have good contacts with people in forest department and non-tribal timber traders in Shillong, Guwahati and outside the region. The Malik Dieng generally buys or secures lease of forests from a private owners by paying a lump sum amount for 15-50 years. Once the forest is leased to Malik Dieng, the owner has no say in what manner the forest is used. Malik Diengs have little interest in reinvestment because of the long period it takes to regenerate the forests'*.

The increase in return from timber also led to closure of common forests for sale of timber resulting in *de-facto* privatization (Karlsson 2004). Although, the privatization of land had been taking place in the state due to a number of factors, several reports attribute the increase in timber trade as one of the key reasons for sharp increase in privatization after 1970 (Goswami and Majumdar 1972; Burmon 1977). The process of privatization and exploitation of forest products took place in different ways in different places as the available literature points out. Nathan (2000), for instance mentions that it started with the ADCs promoting registration of land to reduce land related conflicts and generate revenue. However, this led to people getting the common lands registered in their names. As Dutta (2002) points out, lack of land records and absence of legal or regulatory framework facilitated the control of forest in the hands of few.

Another way through which people registered common lands was claiming longer term rights so as to harvest the trees planted by them on the fallow land left after *jhum* cultivation. These lands were then not returned to community pool and were passed on to their next generation. In the absence of cadastral surveys, difficulties in

establishing ownership and lack of enforcement by local institutions, a large section of common lands, including forests were registered in individual family/clan name. During this process, those who had access to capital and other non-land resources (e.g. political contacts) took a larger share of the formerly unregistered forest land. This situation, as Nathan (2000) puts it: '*despite the rhetoric of community ownership, a large part of forests in the state are privately owned*'.

Regulation of timber trade and impacts

The booming timber trade in Meghalaya suffered a major blow in 1996, when in response to a public interest litigation concerned with increasing loss of forests; the Supreme Court of India imposed a ban on felling of trees across the country. It ordered that no felling will take place in any forests in the country except those for which scientific management plans have been prepared and approved by the central government (Dutta and Kohli 2006). The court, while passing the judgment clarified that the word 'forest' must be understood according to the dictionary meaning. In 1997, the apex Court also banned the transport of logs from the country's north-eastern states and ordered the closure of all unlicensed saw mills and wood processing plants (Rosencranz and Diwan 2001). Dasgupta and Symlieh (2006) point out that the court's main intention was to systematize and regulate forest management and timber trade rather than impose a blanket ban on felling of trees.

This, however, significantly affected the timber trade in Meghalaya. A large number of saw-mills, plywood factories and logging units etc were closed. The ban, as Karlsson (2004) describes it, 'came out of the blue' for people involved in timber trade in Meghalaya and the trade came to a standstill. In this section, drawing from the available literature, I elaborate on key debates/controversies resulting from the Supreme Court's order and its impact on people and forests. The issues presented here form the basis my further investigation to assess the relevance of community-institutions in regulating timber trade in Meghalaya.

The Supreme Court's order to regulate the forests was first opposed vigorously by all key institutions i.e. district councils, state government as well as the traditional community leaders (many of whom also owned large forests) on different grounds. The first reason for opposition was social and economic impacts resulting from loss of livelihoods of large number of people who were involved in timber trade. Ramnath (2002) quotes the Minister of Forests of the state that the ban affected the livelihoods of up to 2,00,000 people in the state. Although it is not clear, as to how this figure was arrived! Some local newspapers and magazines reported that families had to go hungry and parents could not afford to send their children to school as their income from timber trade dried up after the ban (Karlsson 2004). Nongbri (2001) points out that ban not only affected those who were involved directly in timber trade, but also those who are indirectly involved in it. For example, she points out that more than five hundred food shops which served logging and transport workers, truck repair and maintenance shop etc. had to close leading to loss of livelihoods of large number of people in one district alone. The local banks reported sharp decline in deposits. And the ban affected the women as their men had to now travel far away for work, which increased the workload on them.

While these adverse impacts of court order on the livelihoods of people have been agreed by many, there is another school of thought, which argues that the order was

largely misinterpreted by a select group of people who were benefiting from indiscriminate exploitation of forests. They points out that such opposition masked the key problem with the forest ownership and management (or lack of it) in the state. Dutta and Kohli (2006) argue that contrary to the arguments presented by state and district councils, the Supreme Court order had taken into account dependence of people on timber trade and did not impose a complete ban as interpreted by district councils. They state the order, which says that *'considering the dependence of the local people on the forest resources in the region, it is neither feasible, nor desirable to ban completely either the timber trade or running of the wood based industries. However, the continued extraction of timber will be allowed only after developing appropriate working plans'*.

Nevertheless, despite repeated clarifications sought by the court neither the state government nor the district councils submitted any forest management plan for a long time. Chawii (2002) argues that the relentless tirade of the state government and councils against the Supreme Court's ruling for robbing away people's livelihood is just another ruse to hide its own incompetence-both in recognizing the importance of forests livelihoods and also in acknowledging the community's role in managing forests. Instead of assisting the traditional system of forest management to cope with the changes, the councils and state governments were busy collecting revenues from the timber and hence promoting unsustainable exploitation of forests. Unable to cope with the loss of revenues, they have now turned to livelihoods issues of the people, when the key issue of how to manage forest sustainably for the people.

This leads to second important reason for opposing the ban: loss of revenue by both state government and district councils. In the budget session of the Meghalaya Legislative Assembly in 1998, the Finance Minister led a big debate on the issue of loss of revenue from forests, which had put severe constraints on exchequer to raise funds for development work in forest areas of the state (MLA 1998). Chawii (2002), however, points out that the state government had been petitioning the court to lift ban by using the livelihoods issue to protect its own interest more than the livelihoods of the people. This is because the state governments had contracts with public sector companies to provide timber to them. Hence, she argues that local people's livelihood is not the only motive behind the opposition of ban. These contracts provided significant revenue to the state government and ministers. However, it is not clear from the report as to how the state government benefited from timber contracts if majority came from private or community forests.

Dasgupta and Symlich (2006) mention that district councils, who were dependent on the revenue from timber to a large extent, also faced a major financial crisis following the timber ban. The forest management of the District Council is basically non-existent today. A controversial part of the Supreme Court's order was that it even questioned the authority of the District Councils to collect revenue from private forests. Nongbri (2001) quotes the Supreme Court's interpretation of the provisions of sixth schedule with regards to powers vested with the Councils, *'While the subjects relating to taxation are dealt with separately in paragraph 8, paragraph 3 does not contain any subject which authorizes the district and regional councils to levy taxes. Paragraph 3 confers powers on the said councils only to make laws with respect to the management of any forest not being a reserved forest... It may also be noted that there is no specific reference to the power to levy any fees in respect of*

any matter mentioned in paragraph 3 of the Sixth Schedule to the Constitution similar to the corresponding provisions in the penultimate entry in List 1 and the last entry in the other two lists in the Seventh Schedule to the Constitution'. However, it is not clear from the available literature as to why the councils were in the first place allowed to collect revenues and then what happened after the order. There was nevertheless, a strong debate in the state on Supreme Court's interpretation of the Sixth Schedule with regard to council's authority to collect taxes. These district councils later challenged this as violation of their special rights.

This leads to third argument against the ban, based on two interrelated factors: the complexity of definition of forests in case of North East India and violation of the autonomy given to the tribal communities (i.e. district councils) under the Sixth Schedule of the Constitution. One of the main objections to the applicability of Supreme Court's order in case of Meghalaya has been the definition of forests itself. Prior to 1996, the word 'forests' was limited mainly to government declared forests, whether it had trees or not. Likewise, areas with significant tree cover were not recorded as forests simply because in government records it was not declared forests. The Supreme Court's order expanded the definition of 'forests' to even private or community owned forests. As Dutta and Kohli (2006) point out, perhaps nowhere the impact of the expanded meaning of the word 'forests' felt so severely as was in the case of the north eastern states. Nongbri (2001) points out that Supreme Court order failed to take into account the particular situation of north east (in particular Meghalaya) where shifting cultivation is still a major form of agriculture. Due to the complex system of land ownership, there is no 'clear-cut separation' between agriculture land and forests. As the very nature of the shifting cultivation is that trees and bushes reclaim land that has been cultivated the boundary between the two are constantly blurred or in flux.

Karlsoon (2004) says that the Supreme Court order did not take these basic features into consideration. By stating that the order should apply to 'all forests', they have in fact imposed centralized state control over most of the lands owned by the people whether they are used as forests or not. Nongbri (2001) informs that the state government by submitted a memorandum to the Supreme Court that the determination of forest land will be difficult in Meghalaya because the management of all areas outside the reserve forests vests with the councils. The state expressed its inability to carry out cadastral survey of land to prepare proper records of forest in the state. This, however, as Chawii (2002) argues, was seen as an opportunity by the state government to gain control over large areas of 'private' or 'un-classed' forests to bring it under their domain by anticipating the court to order the councils to prepare maps of forest areas.

This leads to second related factor to opposition of the timber ban on the grounds that it violates the autonomy of tribal people in Meghalaya. Dutta and Kohli (2006) point out that the order met with stiff criticism in north eastern part of India, because, they were seen as being aimed at reinforcing central government's control which has been opposed by several north eastern states. The Supreme Court order was argued as bypassing of the Sixth Schedule in which the autonomous district councils are given full jurisdiction over all forests except those declared as reserved or protected forests. In name of forest conservation, the Supreme Court was seen as entrusting the power over all the forests, as stated in the order, irrespective of

ownership and classification to the forest department or the state by allowing timber harvest only after approval of working plans from them (Karlsson 2004).

Nongbri (2001) criticizes that this is not by chance, but rather symptomatic of the state's attitude to the rights of the indigenous people. It is based on underlying assumption that state institutions rather than tribal are best suited to conserve or manage the forests in sustainable manner. The need to get the working plan approved by the forest department was contested by the Councils. As a result of reconsideration of appeal filed by the district councils the Supreme court in a revised order in 1998. It clarified that the term 'state government' will also include District Councils constituted under the Schedule VI of the constitution of India (Dutta and Kohli 2006). It is also important to note that much of the protests by the councils against the ban on this issue were not as much to do with the violation of sixth schedule in practice. But they were aimed to get all the unregistered clan, community or individually owned forest excluded from the purview of the order as the leaders owned majority of them.

And finally, the ban has been opposed by the environmentalists on ecological and economic grounds leading to degradation and undervaluation of forests. Nathan (2000) points out that an important impact of the ban has been change in use of trees. Since trees have no sale value as timber, people are harvesting trees and selling them as lower value forest product. For example, he found that pine trees, instead of being sold as high value timber, are being sold for one tenth the price as firewood which is not banned by the Supreme Court. Making charcoal from burning cut logs and tree branches, which had virtually disappeared, has been again taken up by the people (Ramnath 2002). Chakraborty (2000) interviewed farmers who said that since timber had no value they preferred to convert their forest lands to agriculture plots or for other lucrative land use. Chawii (2002) on the other hand points out that despite the ban, logging of trees continues illegally and quite often it is exported through Bangladesh border.

Timber trade: control by 'tribal elite'

Another important aspect, which is missing from the literature, is the distribution of ownership and control of resources within the community. If the community-institutions cannot deliver benefit to the local people and protect forests, then how do they continue to persist? Since, both traditional institutions and councils are elected bodies, why have local people not been able to get their concerns addressed through them? I hypothesize that this has happened due to increase in control over timber trade by 'tribal elite' after Supreme Court order, which has not been discussed in the literature so far. The community-institutions have persisted as they are 'influenced' by 'tribal elites' (e.g. forest and land owners) who are the main beneficiaries of the timber trade in Meghalaya. The Supreme Court's order of getting the working plan approved has further increased the control of these elites as they have the resources and contacts in councils to obtain such approval. A small land/forest owner in the village cannot sell any tree on his own now and he has to depend on these influential people to be able to get some money from his forests. I argue this also based on my discussions with some development agencies concerned with the increasing landlessness in the state. Similar parallels can be drawn from imposition of regulations on land sale in Meghalaya. For instance, the Land Transfer Act of 1971 prohibits sale of land to non-tribals in Meghalaya, but

gives no safeguards against land alienation or unequal accumulation of land within the tribal communities. In the 1970s, a Land Commission in Khasi Hills argued for the necessity of cadastral mapping, but this was met with vocal protests and claims that a land survey would lead to taxation and increased government control over land that traditionally belongs to the people. Later attempts to carry out land surveys have also been opposed, and as has been pointed out by some commentators (Karlsson 2004) the landholding elite-with an interest in avoiding public scrutiny into these matters-instigate this opposition.

These elites also play an important role in local politics of the community-institutions. For instance, immediately after the Supreme Court order, a 'Forest and Landowners Association' was set up mainly by the rich and powerful people to represent their case in the Supreme Court. The local newspapers reported that most members of this association were family members and relatives of council post holders. The Association has so far made a number of representations in the Supreme Court to allow them to sell timber. In addition, as some local newspapers have reported, after the formation of the association, the association now exclusively regulates the timber business.

To sum up, the review shows that a complex set of factors can be attributed to why community-institutions have not been able to regulate timber trade and prevent loss of forests. On one hand, the district councils have been blamed for seeking to control benefits from forests through the powers vested in them by the Constitution of India rather than supporting sustainable management. On the other hand the state government (through forest department) is increasing its control over the forests under the jurisdiction of district councils particularly, after the imposition of the Supreme Court order. Hence, the different institutions have been competing to control the forests through different means, rather than promote sustainable management of forests. I have also raised the issue that the both state and community-institutions may also have overlapping interest groups, who seek to benefit from absence of any community-based management.

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