

Tiger Reserves: On notification, forest rights and relocation

Demarcation of Tiger Reserves (TRs) consisting of Critical Tiger Habitat (CTH) / core area and Buffer Area and their notifications are to be carried out under the provisions in Sec.38 V of the Wild Life Protection Act (WLPA) 1972 as amended in 2006. All rights to forests referred therein are as per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (FRA). All these forest rights are to be recognized in the Tiger Reserve, whether CTH or Buffer Area, without exception [Sec.2(d) of FRA]. Notification of TRs without following the provisions mentioned below is also a violation of Sec. 3(1), 4(2) and 5 of FRA. These violations are offences with fine up to Rs.1000 (Sec.7 of FRA) for which the Gram Sabha is the authority to issue notice [Sec.8 and Rule 10(d) of FRA] in the form of a resolution to the Chief Secretary as the Chairperson of the State Level Monitoring Committee of FRA for actions to be taken against the concerned officials within 60 days. Further, under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2016 and Rules 2016, wrongful occupation and dispossession of land, [Sec.3(1)(g)], interference with rights including rights over forest (as defined under FRA), land and water, [Sec.3(1)(g)] and obstruction of rights to common property resources [Sec.3(1)(za)(A)] are punishable.

1. Notification of Tiger Reserve

For CTH -

- a) development of an established 'scientific and objective criteria' for identification of the area 'to be kept as inviolate for the purposes of tiger conservation' and the area ought to fulfill this criteria [Sec.38 V (4)(i)];
- b) ensure the rights of STs and OTFDs [Sec.38 V (4)]. This is to be carried out as per the provisions of FRA;
- c) ensure that rights are not affected [Sec.38 V (4)(i)];
- d) constitute an Expert Committee [Sec.38 V (4)(i)] and consultation prior to notification [Sec.38 V (4) (i)].

For Buffer Area -

- a) promote co-existence between wildlife and human activity [Sec.38 V (4)(ii)];
- e) recognise livelihood, developmental, social and cultural rights of the local people [Sec.38 V (4)(ii)]. This is to be carried out as per the provisions of FRA;
- b) ensure that limits of the buffer area are determined on the basis of scientific and objective criteria in consultation with the concerned Gram Sabha and an Expert Committee [Sec.38 V (4)(ii)];

2. Relocation from CTH

The mandatory legal requirements in WLPA prior to any relocation from TRs are:

- a) relocation has to be voluntary [Sec.38 V(5)] (It cannot be involuntary or forced.);
- b) relocation has to be on mutually agreed terms and conditions [Sec.38 V(5)];
- c) rights of STs and forest dwellers are not adversely affected [Sec.38 V(5)];
- d) completion of the process of recognition and determination of rights of STs and other forest dwellers [Sec.38 V(5) (i)]. This is to be carried out as per the provisions of FRA;
- e) acquisition of such land or forest rights of the Scheduled Tribes and others forest dwellers [Sec.38 V(5) (i)]. This is to be carried out as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Resettlement, and Rehabilitation Act, 2013 (LARR).
- f) consultation with an ecological and social scientist familiar with the area to verify that the presence and activities of the STs and other forest dwellers does cause irreversible damage and shall threaten the existence of tigers [Sec.38 V(5) (ii)];

- g) the concerned agencies in consultation with an independent ecological and social scientist familiar with the area, conclude that other reasonable options of co-existence of these STs and other forest dwellers with the tigers are not available [Sec.38 V(5) (iii)]
- h) the concerned agencies with the consent of the concerned STs and other forest dwellers conclude that other reasonable options of co-existence of these STs and other forest dwellers with the tigers are not available [Sec.38 V(5) (iii)];
- i) obtain consent of STs and other forest dwellers that their presence and activities does cause irreversible damage and shall threaten the existence of tigers [Sec.38 V(5) (ii)];
- j) resettlement or alternative package has been prepared providing for livelihood for the affected individuals and communities [Sec.38 V(5) (iv)]. Note: This section when read with Sec. 4(2)(d) of FRA would require 'secure livelihood'. This is to be carried out as per the provisions of LARR, 2013.
- k) informed consent of the Gram Sabha concerned, and of the persons affected, to the resettlement programme is obtained [Sec.38 V(5) (v)].
- l) the facilities and land allocation at the resettlement location are provided [Sec.38 V(5) (vi)]. Note: Both WLPA and FRA provide for livelihood, facilities and land allocation and not cash compensation. This is in addition to compensation for the acquisition of forest rights.

3. The resettlement or alternative package

- a) The resettlement or alternative package providing for *livelihood* as required under Sec.38V(5) (iv) of WLPA and *secure livelihood* as required under for Sec. 4 (2) (d) of FRA based on the law and policy of the central government which is provided for in LARR, 2013as below:
 - (i) Fair compensation, resettlement and rehabilitation are to be provided to all affected families as defined in Sec.3(c) of LARR
 - (ii) The Collector is to determine the value of trees and plants attached to the land for which the services of experts may be used by him as provided under Sec.29 of LARR
 - (iii) The special provisions for SCs and STs under the Development Plan shall include development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years, sufficient to meet their requirements as provided under Sec.41 (5) of LARR
 - (iv) Compensation of twice the market value of the land (nos. 1 and 2), value of assets attached to the land or building (no.4), solatium of twice the market value of the land (no.5), as required under *The First Schedule* of LARR 2013 on compensation for land owners;
 - (v) A constructed house as per the Indira Awas Yojana specifications (no.1); Land for land, a minimum of one acre of land and for SCs and STs equivalent land or two and a half acres whichever is lower (no.2); a subsistence allowance of Rs.3,000 per month for a period of one year from the date of award (no.5); a onetime financial assistance of Rs.50,000 as transportation cost for shifting of the family, building materials, belongings and cattle (no.6); a onetime financial assistance for cattle shed/petty shops as determined by the government of not less than Rs.25,000 (no.7); one time grant for each affected family of an artisan, small trader or self-employed person or an affected family which owned nonagricultural land or commercial structure in the affected area of not less than Rs.25,000 (no.8); a one-time 'Resettlement Allowance' of Rs.50,000 (no.10), and stamp duty and registration fee for registration of the land or house allotted (no.11) under *The Second Schedule* of LARR 2013 on the rehabilitation and resettlement entitlements in addition to the provisions in the First Schedule;
 - (vi) Roads within the resettled villages and an all-weather road link to the nearest pucca road, passages and easement rights (no.1); drainage and sanitation (no.2); assured sources of safe drinking water for each family (no.3); drinking water for cattle (no.4); grazing land (no.5); ration shop (no.6), panchayat ghar including hall, Panchayat President's office, computer room, kitchen, and pantry (no.7); Post Offices (no.8); seed-cum-fertilizer storage facility (no.9); basic irrigation

facilities (no.10); transport facility (no.11); burial or cremation ground (no.12); sanitation facilities including individual toilet points (no.13); individual single electric connections (no.14); Anganwadi's providing child and mother supplemental nutritional services (no.15); school as per the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (no.16); sub-health centre within two km (no.17); Primary Health Centre (no.18); playground for children (no.19); a community centre for every hundred families (no.20); places of worship for every fifty families for community assembly (no.21); separate land for traditional tribal institutions (no.22); forest rights on non-timber forest produce and common property resources, if available close to the new place of settlement and, continued access, use and livelihood rights to such forest or common property in the area close to the place of eviction (no.23); appropriate security arrangements (no.24), and veterinary service centre (no.25) under *The Third Schedule* of LARR 2013 on infrastructural facilities.

- b) the above mentioned provisions of the applicable laws is to be adhered to and the government cannot limit its liability to the Revised Guidelines for The Ongoing Centrally Sponsored Scheme of Project Tiger, 2008 (CSS) and its subsequent additional guidelines. This is neither legally aligned nor tenable with WLP, FRA and LARR. This scheme is not a substitute for the laws even with the revised amount from Rs.10 lakhs to Rs.15 lakhs per affected family in April 2021.
- c) The CSS Guidelines for instance in Section 4.9 clearly refers to 'settlement of rights' as 'a new activity' in the creation of 'inviolable spaces for wildlife and relocation of villagers from core or critical tiger habitats in Tiger Reserves'. Forest rights as per FRA **have to be recognised for them to be considered for settlement.**
- d) The CSS Guidelines also states that it 'requires payment of compensation (rights settlement in addition to the relocation package offered under the CSS at present)...Therefore, payment of compensation for the immovable property of people forms part of modifying / settling their rights which is a statutory requirement'. Therefore, the payment of Rs.15 lakhs "forms part of modifying / settling their rights which is a statutory requirement" **only** and not a substitute for the total compensation, resettlement and relocation as required under the laws. The Rs. 15 lakhs is but the central government share; the rest is the responsibility of the State government to mobilize.
- e) No forest dwellers shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete as required under Sec.4(5) of FRA.

ANNEXURE

Full text of the legal provisions under reference

I. Wildlife (Protection) Act 1972 as amended in 2006 (WLP)		
1.	Sec. 38V(5) (i)	the process of recognition and determination of rights and acquisition of land or forest rights of the Scheduled Tribes and such other forest dwelling persons is complete;
2.	Sec.38 V (5) (ii)	the concerned agencies of the State Government, in exercise of their powers under this Act, establishes with the consent of the Scheduled Tribes and such other forest dwellers in the area, and in consultation with an ecological and social scientist familiar with the area, that the activities of the Scheduled Tribes and other forest dwellers or the impact of their presence upon wild animals is sufficient to cause irreversible damage and shall threaten the existence of tigers and their habitat;
3.	38V(5) (iii)	the State Government, after obtaining the consent of the Scheduled Tribes and other forest dwellers inhabiting the area, and in consultation with an independent ecological and social scientist familiar with the area, has come to a conclusion that other reasonable options of co-existence,

		are not available;
4.	Sec.38V(5) (iv)	resettlement or alternative package has been prepared providing for livelihood for the affected individuals and communities and fulfils the requirements given in the National Relief and Rehabilitation Policy;
5.	Sec.38V(5) (v)	the informed consent of the Gram Sabha concerned, and of the persons affected, to the resettlement programme has been obtained; and
6.	Sec.38V(5) (vi)	the facilities and land allocation at the resettlement location are provided under the said programme, otherwise their existing rights shall not be interfered with.
II. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)		
1.	Sec.3(1)(i)	Rights to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;
2.	Sec. 4 (2) (d)	A resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government.
3.	Sec. 4 (5)	Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.
4.	Sec.7	Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made there under concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees: Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.
III. Right to Fair Compensation and Transparency in Land Acquisition, Resettlement, and Rehabilitation Act, 2013 (LARR).		
1.	Sec.3(c)	“affected family” includes— (i) a family whose land or other immovable property has been acquired; (ii) a family which does not own any land but a member or members of such family may be agricultural labourers, tenants including any form of tenancy or holding of usufruct right, share-croppers or artisans or who may be working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood stand affected by the acquisition of land; (iii) the Scheduled Tribes and other traditional forest dwellers who have lost any of their forest rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) due to acquisition of land; (iv) family whose primary source of livelihood for three years prior to

		<p>the acquisition of the land is dependent on forests or water bodies and includes gatherers of forest produce, hunters, fisher folk and boatmen and such livelihood is affected due to acquisition of land;</p> <p>(v) a member of the family who has been assigned land by the State Government or the Central Government under any of its schemes and such land is under acquisition;</p> <p>(vi) a family residing on any land in the urban areas for preceding three years or more prior to the acquisition of the land or whose primary source of livelihood for three years prior to the acquisition of the land is affected by the acquisition of such land;</p>
2.	Sec.41 (5)	The Development Plan shall also contain a programme for development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of
3.	The First Schedule (1,2,4 and 5)	<p>1. Market value of land: To be determined as provided under section 26.</p> <p>2. Factor by which the market value is to be multiplied in the case of rural areas: 1.00 (One) to 2.00 (Two) based on the distance of project from urban area, as may be notified by the appropriate Government.</p> <p>4. Value of assets attached to land or building: To be determined as provided under section 29</p> <p>5. Solatium: Equivalent to one hundred per cent. of the market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 for rural areas or serial number 3 for urban areas plus value of assets attached to land or building against serial number 4 under column (2).</p>
4.	The Second Schedule (1, 2, 5, 6, 7, 8 and 10)	<p>1. Provision of housing units in case of displacement:</p> <p>(1) If a house is lost in rural areas, a constructed house shall be provided as per the Indira Awas Yojana specifications. If a house is lost in urban areas, a constructed house shall be provided, which will be not less than 50 sq mts in plinth area.</p> <p>(2) The benefits listed above shall also be extended to any affected family which is without homestead land and which has been residing in the area continuously for a period of not less than three years preceding the date of notification of the affected area and which has been involuntarily displaced from such area:</p> <p>Provided that any such family in urban areas which opts not to take the house offered, shall get a one-time financial assistance for house construction, which shall not be less than one lakh fifty thousand rupees: Provided further that if any affected family in rural areas so prefers, the equivalent cost of the house may be offered in lieu of the constructed house:</p> <p>Provided also that no family affected by acquisition shall be given more than one house under the provisions of this Act.</p> <p>Explanation.—The houses in urban area may, if necessary, be provided in multi-storied building complexes</p> <p>2. Land for Land In the case of irrigation project, as far as possible and in lieu of compensation to be paid for land acquired, each affected family owning agricultural land in the affected area and whose land has been acquired or lost, or who has, as a consequence of the acquisition or loss of land, been reduced to the status of a marginal farmer or landless, shall be allotted, in the name of each person included in the records of rights with regard to the affected</p>

		<p>family, a minimum of one acre of land in the command area of the project for which the land is acquired: Provided that in every project those persons losing land and belonging to the Scheduled Castes or the Scheduled Tribes will be provided land equivalent to land acquired or two and a one-half acres, whichever is lower.</p> <p>5. Subsistence grant for displaced families for a period of one year: Each affected family which is displaced from the land acquired shall be given a monthly subsistence allowance equivalent to three thousand rupees per month for a period of one year from the date of award. In addition to this amount, the Scheduled Castes and the Scheduled Tribes displaced from Scheduled Areas shall receive an amount equivalent to fifty thousand rupees. In case of displacement from the Scheduled Areas, as far as possible, the affected families shall be relocated in a similar ecological zone, so as to preserve the economic opportunities, language, culture and community life of the tribal communities.</p> <p>6. Transportation cost for displaced families: Each affected family which is displaced shall get a onetime financial assistance of fifty thousand rupees as transportation cost for shifting of the family, building materials, belongings and cattle.</p> <p>7. Cattle shed/Petty shops cost: Each affected family having cattle or having a petty shop shall get one-time financial assistance of such amount as the appropriate Government may, by notification, specify subject to a minimum of twenty five thousand rupees for construction of cattle shed or petty shop as the case may be.</p> <p>8. One-time grant to artisan, small traders and certain others: Each affected family of an artisan, small trader or self-employed person or an affected family which owned nonagricultural land or commercial, industrial or institutional structure in the affected area, and which has been involuntarily displaced from the affected area due to land acquisition, shall get one-time financial assistance of such amount as the appropriate Government may, by notification, specify subject to a minimum of twenty-five thousand rupees.</p> <p>10. One-time Resettlement Allowance: Each affected family shall be given a one-time “Resettlement Allowance” of fifty thousand rupees only.</p> <p>11. Stamp duty and registration fee: (1) The stamp duty and other fees payable for registration of the land or house allotted to the affected families shall be borne by the Requiring Body. (2) The land for house allotted to the affected families shall be free from all encumbrances. (3) The land or house allotted may be in the joint names of wife and husband of the affected family.</p>
5.	The Third Schedule (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25)	<p>1. Roads within the resettled villages and an all-weather road link to the nearest pucca road, passages and easement rights for all the resettled families be adequately arranged.</p> <p>2. Proper drainage as well as sanitation plans executed before physical resettlement.</p>

		<ol style="list-style-type: none"> 3. One or more assured sources of safe drinking water for each family as per the norms prescribed by the Government of India. 4. Provision of drinking water for cattle. 5. Grazing land as per proportion acceptable in the State. 6. A reasonable number of Fair Price Shops. 7. Panchayat Ghars, as appropriate. 8. Village level Post Offices, as appropriate, with facilities for opening saving accounts. 9. Appropriate seed-cum-fertilizer storage facility if needed. 10. Efforts must be made to provide basic irrigation facilities to the agricultural land allocated to the resettled families if not from the irrigation project, then by developing a cooperative or under some Government scheme or special assistance. 11. All new villages established for resettlement of the displaced persons shall be provided with suitable transport facility which must include public transport facilities through local bus services with the nearby growth centres/urban localities. 12. Burial or cremation ground, depending on the caste- communities at the site and their practices. 13. Facilities for sanitation, including individual toilet points. 14. Individual single electric connections (or connection through nonconventional sources of energy like solar energy), for each household and for public lighting. 15. Anganwadi's providing child and mother supplemental nutritional services. 16. School as per the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009); 17. Sub-health centre within two kilometer range. 18. Primary Health Centre as prescribed by the Government of India. 19. Playground for children. 20. One community centre for every hundred families. 21. Places of worship and chowpal/tree platform for every fifty families for community assembly, of numbers and dimensions consonant with the affected area. 22. Separate land must be earmarked for traditional tribal institutions. 23. The forest dweller families must be provided, where possible, with their forest rights on non-timber forest produce and common property resources, if available close to the new place of settlement and, in case any such family can continue their access or entry to such forest or common property in the area close to the place of eviction, they must continue to enjoy their earlier rights to the aforesaid sources of livelihood. 24. Appropriate security arrangements must be provided for the settlement, if needed. 25. Veterinary service centre as per norms.
IV. Revised Guidelines for The Ongoing Centrally Sponsored Scheme of Project Tiger, 2008 (CSS)		
1.	Section 4.9	<p>Deciding inviolate spaces for wildlife and relocation of villagers from core or critical tiger habitats in Tiger Reserves within a timeframe and settlement of rights (settlement of rights is a <i>new activity</i>) (non recurring).</p> <p>The Wild Life (Protection) Act, 1972, as well as the Scheduled Tribes</p>

		and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, require that rights of people (Scheduled Tribes and other traditional forest dwellers) recognized in forest areas within core/critical tiger/wildlife habitats of tiger reserves/protected areas may be modified and resettled for providing inviolate spaces to tiger/wild animals. This requires payment of compensation (rights settlement in addition to the relocation package offered under the CSS at present) . Chapter IV of the Wild Life (Protection) Act, 1972 (Section 24) provides for acquisition of rights in or over the land declared by the State Government under Section 18 (for constituting a Sanctuary) or Section 35 (for constituting a National Park). Sub-section 2 of Section 24 of the Wild Life (Protection) Act, authorizes the Collector to acquire such land or rights. Therefore, payment of compensation for the immovable property of people forms part of modifying / settling their rights which is a statutory requirement.
V. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act as amended in 2016		
1.	2(1)(be)	“forest rights” shall have the meaning assigned to it in sub-section(1) of section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers(Recognition of Forest Rights) Act, 2006 (2 of 2007);
2.	Sec.3(1)(g)	wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights, including forest rights, over any land or premises or water or irrigation facilities or destroys the crops or takes away the produce there from. Explanation.—For the purposes of clause (f) and this clause, the expression “wrongfully” includes— (A) against the person’s will; (B) without the person’s consent; (C) with the person’s consent, where such consent has been obtained by putting the person, or any other person in whom the person is interested in fear of death or of hurt; or (D) fabricating records of such land;
3.	Sec. 3(1)(za)	obstructs or prevents a member of a Scheduled Caste or a Scheduled Tribe in any manner with regard to— (A) using common property resources of an area, or burial or cremation ground equally with others or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing ghat, any public conveyance, any road, or passage;