

# Special Areas and FRA CTH & CWH

c.r.bijoy

**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What is it and where?

Consists of –

- (i) core or critical tiger habitat areas of National Parks and Sanctuaries – to be kept as inviolate and [Sec.38V(i)]
- (ii) buffer or peripheral area consisting of the area peripheral to critical tiger habitat or core area- where a lesser degree of habitat protection is required .. promoting co-existence between wildlife and human activity [Sec.38V(ii)]

Consists of –

- areas of National Parks and Sanctuaries - – to be kept as inviolate [Sec.2(b)] which ‘shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses’ [Sec.4(2)(f)]
- No buffer area

**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

### Who is to notify the area?

- CTH: The State Government [Sec.38V(i)]
- Buffer or peripheral area: The State Government in consultation with an Expert Committee [Sec.38V(i)]

The Central Government in the MoEF [Sec.2(b)]



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

### **Notified through what process?**

- CTH: In consultation with an Expert Committee [Sec.38V(i)]
- Buffer or peripheral area: In consultation with an Expert Committee [Sec.38V(i)]
- After open process of *consultation* by an Expert committee [Sec.2(b)]

**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

### Who is to determine the area?

- CTH: The State Government in *consultation* with an Expert Committee
- Buffer or peripheral area: The State Government in *consultation* with the concerned Gram Sabha and an Expert Committee
- The Central Government in the MoEF after open process of *consultation* by an Expert committee [Sec.2(b)]



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What is the basis of determination?

- CTH: Scientific and objective criteria [Sec.38V(4) (i) ]
- Buffer or peripheral area: Scientific and objective criteria
- Scientific and objective criteria [Sec.2(b)]

**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## Who will prepare the proposal?

- CTH: The Expert Committee [Sec.38V(i)] in consultation with respective Field Directors [3(ii) of NTCA letter No. 1501/11/2007-PT (Part) dtd. 16 November 2007]
- Buffer or peripheral area: The Expert Committee in consultation with the concerned Gram Sabha
- An Expert Committee on a case to case basis [Sec.2(b)]
- Conservator of Forests /Field Director/officer to constitute the Expert Committee. [MoEF Letter No.F.No.1-39/2009 WL-I (pt) dtd. 7 February 2011]



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## Who are the Expert Committee members?

- Chief Wildlife Warden (Chairman), two experts (one governmental and the other non-governmental) [3(i) of NTCA letter No. 1501/11/2007-PT (Part) dtd. 16 November 2007] and ‘in consultation with an ecological and social scientist familiar with the area,’ [Sec.38V(5) (ii) ]
- Includes experts from the locality appointed by that Govt and a representative of MoTA [Sec.2(b)]
- Park manager/Wildlife Warden/DFO (Chairman), District Tribal Welfare Office, A local NGO representative, Range Forest Officer (Member Secretary) [MoEF Letter No.F.No.1-39/2009 WL-I (pt) dtd. 7



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

### Time line

- CTH: 'Within 10 days from the receipt of this letter' [3(ii) of letter No. 1501/11/2007-PT (Part) dtd. 16 November 2007, NTCA]
- Buffer or peripheral area: By 31-01-2008, along with identified tiger corridors [3(v) of NTCA letter No. 1501/11/2007-PT (Part) dtd. 16 November 2007]
- Park Manager/DFO in consultation with the local scientific institution to identify CWH within 60 days of MoEF Letter No.F.No.1-39/2009 WL-I (pt) dtd. 7 February 2011.

**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

### Time line

- CTH: 'Within 10 days from the receipt of this letter' [3(ii) of letter No. 1501/11/2007-PT (Part) dtd. 16 November 2007, NTCA]
- Buffer or peripheral area: By 31-01-2008, along with identified tiger corridors [3(v) of NTCA letter No. 1501/11/2007-PT (Part) dtd. 16 November 2007]
- Proposal to be submitted to the Chief Wildlife Warden within 15 days.
- Chief Wildlife Warden to forward proposal to the MoEF within 15 days or within 30 days if it is State/UT wise consolidated proposal  
[As per MoEF Letter No.F.No.1-39/2009 WL-I (pt) dtd. 7 February 2011]



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

### **What criteria are to be adopted?**

- CTH: A minimum inviolate space of 800-1000 sq km... based on tiger life history parameters, territory sizes and population viability analysis as assessed by NTCA and Wildlife Institute of India in 2006... to maintain a viable population of 80-100 tigers (in and around core)
- A minimum inviolate space of 800-1000 sq. km to support a viable population of tiger in tiger landscapes, based on tiger life history parameters, territory sizes and populations viability analysis.



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What criteria are to be adopted?

- CTH: A minimum inviolate space of 800-1000 sq km... based on tiger life history parameters, territory sizes and population viability analysis as assessed by NTCA and Wildlife Institute of India in 2006... to maintain a viable population of 80-100 tigers (in and around core)
- Species area curves specific for each bio-geographical area, its potential to harbor viable populations of umbrella species (endemic species, top carnivores, mega-herbivores, indicator, wild relatives of species of economic value, endangered and threatened, and migratory species), which would serve to conserve the entire biodiversity of the area.

**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

### **What are the steps required?**

- Section 38(V)5 classifies CTH into two typologies, namely, (a) those where there is “voluntary relocation on mutually agreed terms and conditions”, and (b) all others, meaning thereby, where relocation is not voluntary



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What are the steps required?

*Where relocation is voluntary:*

- the terms and conditions should be mutually agreed upon between the State and the affected forest dwelling communities
- these mutually agreed terms and conditions must “satisfy the requirements” laid down in clause (i) through (vi) of Section 38(V) 5



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What are the steps required?

*Where relocation is not voluntary:*

- “no STs or other forest dwellers shall be resettled or have their rights adversely affected for the purpose of creating inviolate areas for tiger conservation unless...”, and then lists clauses (i) through (vi) of Section 38(V)

**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What are the steps required?

*Where relocation is not voluntary:*

- clearly mandatory and prohibitory in nature, brooking no exception at all “save as” those CTHs where relocation is voluntary



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

### **What are the steps required?**

*Clause (i) through (vi) of Section 38(V) 5*

- (i) completion of the “process of recognition and determination of rights” prior to the acquisition of these rights;

*Clause (a) to (f) of Section 4(2)*

- (a) completion of “ recognition and vesting of rights” in all the areas under consideration



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What are the steps required?

*Clause (i) through (vi) of Section 38(V) 5*

- (ii) obtaining the “consent of the STs and such other forest dwellers in the area” by the government that “the impact of their presence upon wild animals is sufficient to cause irreversible damage and shall threaten the existence of tigers and their habitat”;

*Clause (a) to (f) of Section 4(2)*

- (b) it is established “that the activities or impact of the presence of right holders will cause irreversible damage and threaten the existence of said species and their habitat”. This is to be carried out by the concerned state government agencies under WLPA.

**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

### **What are the steps required?**

*Clause (i) through (vi) of Section 38(V) 5*

*Clause (a) to (f) of Section 4(2)*



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What are the steps required?

*Clause (i) through (vi) of Section 38(V) 5*

- (iii) obtaining “the consent of the STs and other forest dwellers inhabiting the area” “that other reasonable options of co-existence, are not available”. This is to be done “in consultation with an ecological and social scientist familiar with the area”;

*Clause (a) to (f) of Section 4(2)*

- (c) the State government has concluded that “other reasonable options such as co-existence are not available”

**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What are the steps required?

*Clause (i) through (vi) of Section 38(V) 5*

- (iv) preparation of the resettlement package (not mere cash compensation) “providing for livelihood for the affected individuals and communities” (not just the affected individuals but also communities) as per the National Relief and Rehabilitation Policy

*Clause (a) to (f) of Section 4(2)*

- (d) preparation of “a resettlement or alternative package that provides a secure livelihood for the affected individuals and communities” (not mere cash compensation) on a case to case manner and should be consistent with the “relevant laws and the policy of the Central Government”



**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What are the steps required?

*Clause (i) through (vi) of Section 38(V) 5*

- (v) obtaining both “the informed consent of the Gram Sabha concerned, and of the persons affected” for this resettlement package; and

*Clause (a) to (f) of Section 4(2)*

- (e) “the free informed consent of the Gram Sabhas... to the proposed resettlement and to the package... in writing”

**Tiger Reserve:** Under Sec. 38V (4) and Sec. 38V (5) of the Wildlife Protection Act 1972 amendment of 2006 (with effect from 4 September 2006)

**Critical Wildlife Habitat:** Under Sec.2(b), and Sub-sections (1) and (2) of Sec. 4 of the Forest Rights Act 2006 (with effect from 1 January 2008)

## What are the steps required?

*Clause (i) through (vi) of Section 38(V) 5*

- (vi) ensuring that “their existing rights shall not be interfered with” until the resettlement package is fully in place.

*Clause (a) to (f) of Section 4(2)*

- (f) 'settlement' only after “facilities and land allocation at the resettlement location are complete as per the promised package” with “secure livelihood” [Sec.4(2)(d)]



# Critical Tiger Habitat

- Project Tiger launched in 1973 with 1,827 tigers (1972), the tigers are down to 1,411 in 28 tiger reserves
- Vanished Tigers in Sariska where Rs 2 crore per tiger was spent in 2002-03 as compared to only Rs 24 lakh per tiger elsewhere
- “Joining the Dots” – a damning report of the five-member Tiger Task Force in 2005 to the PM
  - the contemporary approach of guns, guards and fences is simply not the answer
  - increasing conflict between the forest bureaucracy with those who coexist with tiger was a sure recipe for disaster

# Critical Tiger Habitat

- The Wild Life (Protection) Amendment Act, 2006 (No 39 of 2006) came into force on 4 September 2006
  - Created the NTCA (Section 38 K-X) to oversee the tiger reserves, an administrative category created under Project Tiger, but now a legal category
  - Created the Tiger and Other Endangered Species Crime Control Bureau (Section 38 Y-Z).
  - Section 38V pertains to the “Tiger Conservation Plan”.
- National Tiger Conservation Authority (NTCA) rushed in with guidelines on 25 October 2007 followed by an order to notify “Critical Tiger Habitats” (CTHs) on 16 November 2007 to.



# Critical Tiger Habitat

- 30,466 sq km of tiger reserves were notified as CTH at break-neck speed to beat the notification of the Rules of the FRA on 1 January 2008
- 25,551 sq km of tiger forests in 2007 rapidly expanded by 22% to 32,878 sq km of core area or CTH in just three years
- The number of tiger reserves jumped from 28 to 39 and are spread over 17 states

# Critical Tiger Habitat

*More CTHs are in the making –*

- Biligiri Rangaswamy Temple (BRT) in Karnataka,
- Sunabeda in Orissa,
- Pilibhit in Uttar Pradesh
- Ratapani in Madhya Pradesh.
- Nagzira-Navegaon and Bor in Maharashtra(proposed)
- Sathyamangalam in Tamilnadu (to be proposed)



# Critical Tiger Habitat

- The buffer zone now covers 11,029 sq km in just 13 CTHs while the remaining 26 are yet to figure out their buffer zones.
- Project Tiger budget jumped from a mere Rs 12 crore per year during 1972-2004 to Rs 202 crore during 2009-10.
- At least 77,000 families live inside these tiger reserves. Only 3,000 families have been relocated till 2009
- MoEF scaled up the release of funds for illegal evictions and relocations from Rs 30 crore and Rs 41 crore during 2007-08 and 2008-09 respectively to Rs 114 crore in 2009-10 as central assistance funds.

# Critical Tiger Habitat

- Forced evictions and relocations have either taken place or initiated in Buxa (West Bengal), Kanha and Panna (Madhya Pradesh), Nagarjuna-sagar-Srisaïlam (Andhra Pradesh), Simlipal (Orissa), Sariska and Ranthambore (Rajasthan), Namdapha (Arunachal Pradesh), Nagarhole (Karnataka), Corbett (Uttarakhand), Manas (Assam), Dampa (Mizoram), Valmiki (Bihar), Achanakmar (Chhattisgarh), Tadoba Andheri, Pench, Melghat (Maharashtra) and others. ....



# Critical Tiger Habitat

- At the same time, at least 43,636 ha of forests were diverted for non-forestry purposes between April 2008 and December 2009 *without* settlement of rights or consent of Gram Sabha...and continues ...

# Critical Wildlife Habitat

- The guidelines for CTH generally adhered to WLPA amendment of 2006 and FRA 2006, but CTH notifications and implementation ***violates*** both these laws and the guidelines
- But the revised guideline issued by MoEF for implementing CWH on 17 February 2011 [F.No.1-39/2009 WL-I (pt)] ***violates the law itself.***



# Critical Wildlife Habitat

## Potential CWH

- **National Parks**

- 97 existing NPs covering 1.16% of the geographical area (38,199.47 sq km).
- Another 74 NPs proposed covering 16,630.08 sq km.

- **Wildlife Sanctuaries**

- 508 existing wildlife sanctuaries cover an area of 3.60% of the geographical area (118,236.94 sq km)
- Another 217 sanctuaries are proposed covering an area of 16,669.44 sq km.

# Critical Wildlife Habitat

## Requirement of Law

- MoTA is the nodal agency
- In NPs and WLs
- Decide wildlife habitats on basis of scientific and objective criteria
- On a case by case basis

## What Guidelines Say

- MoEF is the nodal agency for Sec.2(b) & 4
- In and ***around*** NPs and WLs
- No criteria specified; left to administrative fiat
- Left to concerned DFO "in consultation" with "local scientific institution"



# Critical Wildlife Habitat

## Requirement of Law

- Decide through a process of consultation by an Expert Committee

## What Guidelines Say

- Identification entirely by DFO and "local scientific institution", without any consultation; role of Expert Committee is restricted to "sensitising" people to the relocation package *after* the proposal is sent to MoEF"

# Critical Wildlife Habitat

## Requirement of Law

- Recognition of rights and other pre-conditions to be met prior to any relocation [S.4(1) and 4(2)]
- Rights have to be recognised first

## What Guidelines Say

- Ignores and therefore violates both
- Completely ignored except irrelevant reference in Annexure 2



# Critical Wildlife Habitat

## **Requirement of Law**

- No relocation unless it can be shown that human presence cause irreversible damage and co-existence not possible

## **What Guidelines Say**

- Completely ignored

# Critical Wildlife Habitat

## Requirement of Law

- Relocation must provide a secure livelihood
- Free informed consent of the gram sabha to be taken in writing

## What Guidelines Say

- Rs. 10 lakh compensation or vague "rehabilitation" mentioned; no reference to providing a livelihood
- Ignored; no procedure stated, refers to consent of individual families



# Critical Wildlife Habitat

## **Requirement of Law**

- No relocation until facilities at new site (by implication including livelihood) are complete

## **What Guidelines Say**

- Completely ignored

# Critical Wildlife Habitat

...the rapid expansion of conflict zone..... endangering wildlife and forest dwellers ....!!!