

## **Annexure 2:**

### **Provisions related to Co-existence and Relocation in the Forest Rights Act 2006 and Wildlife Protection (Amendment) Act 2006**

#### **Co-existence and Relocation in Forest Rights Act 2006**

Forest Rights Act (FRA) 2006 clearly defines 'forest land' under Section 2 (d) to mean forests of all categories including the protected areas such as Wildlife Sanctuaries, National Parks and Tiger Reserves. Sections 4 (1) provides for recognition and vesting of all kinds of forest rights of STs and OTFDs as mentioned in section 3 notwithstanding anything contained in any other laws for the time being in force. Further Section 4 (2) of FRA requires recognition and vesting of rights in critical wildlife habitats and similarly Section 38 V of the Wildlife Protection (Amendment) Act of 2006 mandates recognition and vesting of rights of STs and OTFDs in the critical tiger habitats.

#### **Co-existence and Relocation in Wildlife Protection (Amendment) Act 2006**

##### ***Wildlife Protection Act emphasizes FRA and promoting co-existence in Tiger Reserves***

Section 38V (3) The State Government shall prepare a Tiger Conservation Plan; (b) ecologically compatible land uses.....for addressing the livelihood concerns of local people..... Section 38V (4) states that the State Government shall while preparing a Tiger Conservation Plan, ensure the agricultural, livelihood, developmental and other interests of the people living in tiger bearing forests or a tiger reserve.

As per the explanation given in these sections, it is clear that this plan prepared taking into account the interests of the local people has to be done **both in the core and the buffer zones of the tiger reserve**. Section 3 V (4) (i) clearly states "...that such areas are required to be kept as inviolate for the purposes of tiger conservation, without affecting the rights of the Scheduled Tribes or such other forest dwellers..."; (ii) further states that in buffer or peripheral areas co-existence needs to be promoted "between wildlife and human activity with due recognition of the livelihood, developmental, social and cultural rights of the local people" and that "limits of such areas are determined on the basis of scientific and objective criteria in consultation with the concerned Gram Sabha and an Expert Committee constituted for the purpose"

##### ***Wildlife Protection Act advises relocation in exceptional situations only if proven that co-existence is not possible***

Section 38V (5) clearly states "Save as for voluntary relocation on mutually agreed terms and conditions, provided that such terms and conditions satisfy the requirements laid down in this sub-section, no Scheduled Tribes or other forest dwellers shall be resettled or have their rights adversely affected for the purpose of creating inviolate areas for tiger conservation unless—

- (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;
- (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;
- (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;
- (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;
  - (v) the informed consent of the Gram Sabha concerned, and of the persons affected, to the resettlement programme has been obtained; and
  - (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.”

Or

1. The notification of Critical Tiger Habitat (CTH) of Tiger Reserves (TRs) should:
  1. ensure the rights of STs and OTFDs [Sec.38 V (4)]
  2. ensure that rights are not affected [Sec.38 V (4)(i)]
- 2) The notification of Buffer Area should
  1. promote co-existence between wildlife and human activity [Sec.38 V (4)(ii)]
  2. recognise livelihood, developmental, social and cultural rights of the local people [Sec.38 V (4)(ii)]
  3. ensure that limits of the buffer area and by default the CTH area (determining the limits of the buffer area of TRs in effect means also determining CTH area) CTH 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)]
- 3) All relocations in TRs require that
  - a. relocation has to be voluntary [Sec.38 V(5)]
  - 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)]
  - e. acquisition of such land or forest rights of the Scheduled Tribes and others forest dwellers [Sec.38 V(5) (i)]
  - f. 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)]
  - g. 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)]
  - 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. 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)]

- 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' informed consent of the Gram Sabha concerned, and of the persons affected, to the resettlement programme is obtained the facilities and land allocation at the resettlement location are provided. 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**