

India: Impacts of tiger reserves on indigenous peoples

SEPT
2022



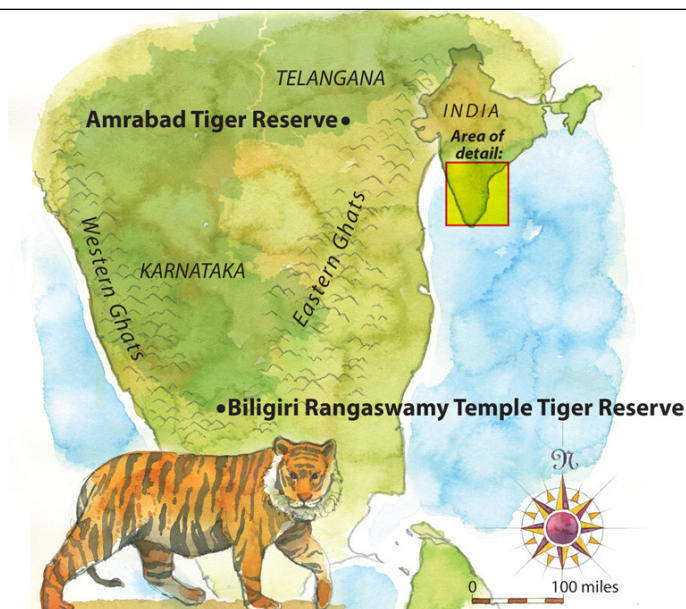


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1. Introduction

With the increase in the number of tiger reserves from just nine in 1973 (when the Government of India launched Project Tiger to promote the conservation of tigers) to 52 at present and the population of tigers from around 1,900 in the early 1970s to 2,967 (as per the last count in 2018), India has pitched itself as "a global leader in tiger conservation".[1] Apart from these 52 tiger reserves, the National Tiger Conservation Authority (NTCA) under Ministry of Environment, Forest and Climate Change has accorded permission to Sunabeda Wildlife Sanctuary, MM Hills Wildlife Sanctuary, and Guru Ghasidas National Park & Tamor Pingla Wildlife Sanctuary for declaration as Tiger Reserves. Further, in-principle approval has been given to Ratapani Wildlife Sanctuary, Dibang Wildlife Sanctuary and Kaimur Wildlife Sanctuary for declaration as Tiger Reserve.[2] The Government of India must be complimented for increasing the tiger numbers under Project Tiger. Today India has 75% of the world's wild tiger population.[3]

But there is the other side of the story: the rise in the number of tigers or the number of tiger reserves has turned the lives of thousands of Scheduled Tribes/indigenous peoples and local communities upside down. The Wild Life (Protection) Act, of 1972 [in short, WLP Act, 1972] criminalized the traditional practices of the tribals living in and around the protected areas. The tribals are heavily dependent upon forest and forest resources for food, fuel and livelihood which is now denied to them. They have been criminalized, shot at/killed and tortured for collecting honey, mahua flowers, firewood, or fishing in the forests. The Government of India started Project Tiger in 1973 and provided a financial incentive of Rs 100,000 per family for relocation from the tiger reserves (the relocation amount was increased to Rs 10 lakh, or INR one million, in 2008).

As a matter of strategy, the government wilfully kept its citizens residing inside the protected areas bereft of any development or basic facilities to force them to relocate. Since the inception of Project Tiger in 1973, as per official data, about 18,493 families have been relocated/displaced from 215 villages in the process of formally protecting the tigers across the country.[4] The displacements happened from the core areas, also known as "critical tiger habitats", created under the WLP Act, 1972.

As per official data, there are still 41,086 families in 496 villages living inside the tiger reserves as of 2020[1] who are the target of relocation/displacement under Project Tiger as the government seeks to create "involute areas" for tiger conservation. (In 2005, the Tiger Task Force set up by the Government of India stated that in the last 30 years, only 80 villages and 2,904 families have been relocated from different tiger reserves in the country and there were 65,000 families, or 325,000 people still residing in 1,500 villages inside the core and buffer zones of tiger reserves)[6]. Hence, the creation of tiger reserves has led to the eviction of thousands of indigenous peoples and other traditional forest-dwellers from their traditional habitats and it cannot be said that they are better off after displacement.

India's conservation model which seeks people-free protected areas without having regard for the rights of the indigenous and other local communities living in these protected areas is deeply problematic. This flawed conservation model has blamed/targeted the tribals at the drop of the hat while conveniently ignoring the negative impacts due to the commercial interests of big corporates such as mining inside the forests. It is the indigenous peoples who have been fighting against the big corporates and the State in their desperate attempts to safeguard the forest land and biodiversity and they have made huge sacrifices while protecting the Mother Nature.

A study by the Survival International, a non-profit for tribal rights, revealed that in Biligiri Rangaswamy Temple Tiger Reserve (Karnataka) where the Soliga tribals have been allowed to co-exist with the tigers including in the core area/critical tiger habitat, the number of tigers almost doubled from 35 to 68 between 2010 and 2014, which was far higher than the national rate at which the tiger population was growing. The Soligas worship tiger as a god and there has not been any case of tiger poaching by them.[7] However, these best practices have been kept hidden from the public by the conservation industry, alleged the Survival International.[8]

In 2006, the co-existence of the tribals with the forests and wildlife has been recognized under the Wild Life (Protection) Amendment Act, 2006 [in short, WLP Amendment Act, 2006] and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [in short, FRA, 2006].

The latter clearly recognized that the forest-dwelling Scheduled Tribes and other traditional forest dwellers are "integral to the very survival and sustainability of the forest ecosystem".[9] The Wild Life (Protection) Amendment Act, 2006, provided that the Scheduled Tribes and such other forest dwellers cannot be relocated from the tiger reserves without first settling their forest rights, without obtaining "the consent of the Scheduled Tribes" and without obtaining in writing "the informed consent of the Gram Sabha concerned, and of the persons affected".[10]

The FRA 2006 also provides the same protection and further provides that "the free informed consent of the Gram Sabhas" (to be obtained in writing) is mandatory to carry out any resettlement of the tribals and other rights holders.[11]

However, these laws are not followed while relocating the indigenous and other local communities to make the tiger reserves people-free. Unfortunately, even as the tigers have become the preferred residents of the forests, the indigenous peoples are continued to be seen as encroachers, and subjected to various types of human rights abuses, including forced eviction, killing, false prosecution, torture and harassment.

It is high time to recognize the fact that tiger conservation in India has directly affected thousands of people, mainly tribals, who live in and around the tiger reserves and the Government must take care of their concerns.

2. Legal frameworks for tiger conservation and forest rights of the tribals in India

The WLP Act 1972 is India's main legal framework for the protection of wildlife. This law has, for all practical purposes, made the traditional activities practised by the tribals for their living illegal. However, in 2006, the law was amended by the WLP Amendment Act, 2006 to recognize the rights of the Scheduled Tribes and such other forest dwellers residing inside the protected areas, including the Tiger Reserves. It provided that no "inviolate areas for tiger conservation" can be created and no Scheduled Tribe or other forest dweller can be evicted/relocated from the Tiger Reserves without fulfilling the conditions mentioned in section 38V(5).

Section 38V (5) of the WLP Amendment Act, 2006 is reproduced below:

"(5) 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."

Further, section 38-O(2) of the WLP Amendment Act, 2006 states that the National Tiger Conservation Authority cannot issue any directions to any person, officer or authority for the protection of tiger or tiger reserves which "shall interfere with or affect the rights of local people, particularly the Scheduled Tribes." The State government is required to prepare a Tiger Conservation Plan which shall "ensure the agricultural, livelihood, developmental and other interests of the people living in tiger bearing forests or a tiger reserve" [Section 38V (4)] and "livelihood concerns of local peoples" [Section 38V 3 (b)].

Most importantly, the FRA, 2006, which was enacted to undo historic injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers, for the first time recognized the forest dwelling Scheduled Tribes and other forest dwellers as "rights holders". The law vests forest rights in them as listed in section 3 of the FRA 2006 which, inter-alia, secure individual or community tenure or both. Section 4(2) of the FRA 2006 provides that the forest rights provided under section 3 can be subsequently modified or resettled outside the "the critical wildlife habitats" but only after all the provisions from section 4(2)(a) to (f) of the FRA, 2006 are complied with, namely:-

a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government has concluded that other reasonable options, such as, co-existence are not available;

(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;

(e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package.

Notwithstanding the provisions of the WLP Act, 1972, the FRA, 2006 provides that the procedure for admitting claims, and recognizing and vesting of forest rights within the National Parks and Wildlife Sanctuaries has to be undertaken by the Gram Sabha, the Sub-Divisional Level Committee and the District Level Committee under section 6 of the FRA, 2006.

Section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989 [in short, PoA Act, 1989] makes it an offence of atrocity against members of the Scheduled Castes or Scheduled Tribes if any person, not being a member of a Scheduled Caste or a Scheduled Tribe, "(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 therefrom". This offence shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with a fine.

The Panchayats (Extension to Scheduled Areas) Act, 1996 [in short, PESA Act, 1996] is applicable in 5th Scheduled Areas which are predominantly inhabited by the Scheduled Tribes. The PESA Act 1996 provides that the Gram Sabha (or village council consisting of all adult persons of the village who have attained the age of 18 years) shall be the competent authority "to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution" [Section 4(d)] The prior consent of the Gram Sabha is mandatory for the acquisition of land in the Scheduled Areas for development projects and before resettling/ rehabilitating persons affected by such projects. [Section 4(i)] [12]

Further, section 41 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [in short, LARR Act, 2013] states that in case of acquisition or alienation of any land in the 5th Scheduled Areas, "the prior consent" of the concerned Gram Sabha shall be obtained.

3. Forced evictions of tribals from tiger reserves

The authorities have flouted all the statutory rights of the tribals vested under the FRA, 2006 and the WLP Amendment Act, 2006 to forcibly evict them from the tiger reserves to create "involute areas" for tiger conservation. Under the WLP Amendment Act, 2006, the authorities are required to create "core or critical tiger habitat" on the basis of "scientific and objective criteria" where such areas are required to be kept as "involute for the purposes of tiger conservation" but "without affecting the rights of the Scheduled Tribes or such other forest dwellers". In order to resettle the Scheduled Tribes and other forest dwellers or even to create a core or critical tiger habitat, the concerned agencies of the state government will have to conclusively prove 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" and that the state government has come to a conclusion that "other reasonable options of co-existence, are not available." However, there is no transparency as to who took the decisions, or how the decisions were taken, to declare that the tribals cannot co-exist with tigers or that their presence shall cause irreversible damage or threaten the existence of tigers. Hence, the tribals have been arbitrarily deemed as threats to the tigers and evicted without following the due process of law.

On the other hand, the state governments have refused to settle the claims submitted by the tribals under the FRA 2006 which makes their presence in the tiger reserves illegal. In a letter dated March 28, 2017, the NTCA issued an order not to recognize forest rights in "Critical Tiger Habitats" in the absence of guidelines for notification of critical wildlife habitats.[13] The Ministry of Environment, Forests and Climate Change (MEFCC) told the Parliament on December 31, 2018, that the said order of the NTCA has been superseded by the issuance of guidelines for notification of Critical Wildlife Habitats by the Wildlife Division of the MEFCC which was issued on January 4, 2018.[14] The authorities claimed the relocations under the Project Tiger as "voluntary village relocation and rehabilitation of people"[15] but in many cases, such relocations were found to be coerced.

According to the MEFCC, about 18,493 families have been relocated/displaced from 215 villages in the process of formally protecting the tigers across the country since 1973 when Project Tiger started.[16] There are still 41,086 families in 496 villages living inside the tiger reserves as of 2020[17] who are the target of relocation/displacement under Project Tiger as the government seeks to create "involute areas" for tiger conservation.

In 2006, the WLP Act, 1972 was amended to provide protections to the Scheduled Tribes and other forest dwellers from forced eviction but at the same introduced the concept of "voluntary relocation on mutually agreed terms and conditions".[18] Following the 2006 amendments and despite the protections provided to the Scheduled Tribes and other forest dwellers, the displacements only accelerated. Till 2005, 2,900 families from 80 villages had been relocated/displaced but between 2005 and 2020, 135 villages with 15,593 families were relocated/displaced.[19]

Interestingly, the official objectives of relocation from the tiger reserves were declared to create an "involute area" for the tigers and to "provide better living conditions to the tribal".[20] Yet, in most cases of displacement under Project Tiger, the promises of land, and basic facilities in the new settlements such as school, better healthcare infrastructure and livelihood opportunities have not been implemented. There are several examples of the failed model of displacement from tiger reserves.

Case 1: Alleged forced eviction of Baigas and others from Achanakmar Tiger Reserve, Chhattisgarh

Achanakmar Wildlife Sanctuary (Chhattisgarh), which spreads over an area of 551.5 square kilometres, was declared as a Tiger Reserve in 2009. Ten months later, in December 2009, around 249 families (mainly tribals belonging to Baiga tribe) from six out of 25 villages of Achanakmar were relocated outside the tiger reserve. It is alleged that the relocation took place without the consent of the Gram Sabhas and without settling the forest rights of the tribals and others under the FRA, 2006.[21] Each relocated family was allegedly given a measly sum of Rs 5,000 in cash and Rs 45,000 in their bank accounts, instead of Rs 10 lakhs.[22]

As part of rehabilitation, the displaced families were compensated with five acres of land and a two-room pucca (permanent) house each, apart from the monetary compensation. But the tribal people, who were accustomed to living in kutchha (temporary) houses built new kutchha huts around their dilapidated pucca houses. It is alleged that the land given to them was barren and lacked any irrigation facility.

The displaced families now living at the edge of the forest are not allowed to collect anything from the forests, including fuelwood. As a result, the Baigas have no livelihood options outside the forests and are now being forced to work as construction workers in urban areas.[23]

The state government has also proposed relocation of the remaining 19 villages staying inside the Tiger Reserve. The fear of relocation without getting ownership of land made the residents of these 19 villages unitedly demand Community Forest Resource Rights (CFRR) since 2019. Their demand met with success when on August 9, 2022, four villages namely Bamhani, Mahamai, Katami and Babutola received CFRR over 1,663 hectares, 1,384 hectares, 3,240 hectares and 191.60 hectares respectively. This is a significant win, because once CFRR is recognized as a community, the ownership of the forest passes into the hands of the Gram Sabha, instead of the forest department.[24]

Case 2: Alleged forced eviction from Pench Tiger Reserve (Maharashtra-Madhya Pradesh)

In 1990, the forest department of Maharashtra began to demolish the houses of the residents including tribals without giving prior notice at Totladoh village located in the core area of Pench Tiger Reserve. Fishing was one of the primary sources of livelihood for the villagers but it was banned in 1995 under the Wildlife Protection Act. The move was opposed by the villagers who continued fishing.

In April 2002, the Nagpur Bench of the Bombay High Court ordered the relocation of three settlements. A huge police force comprising paramilitary commandos demolished huts at Totladoh and 315 families were forcibly evicted. Following pressure from civil society organizations, the revenue department granted some land to the evicted families, on which a new village called New Totladoh village was set up in 2002.[25]

It is alleged that the state government of Maharashtra failed to provide any rehabilitation benefits at the New Totladoh village. The 'relocated' villagers are leading a perilous life, without means of livelihood as there are strict restrictions on access to forest produce and fishing inside the Pench Tiger Reserve. The villagers alleged that the forest guards fired upon them with pellet guns. In January 2012, 17 fishermen were injured, some seriously, in a close-range firing by the forest guards of Maharashtra.

On July 1, 2012, one fisherman was shot dead by the forest guards when he entered the forest to fish at the Pench reservoir.[26] The villagers filed a claim for community fishing rights from the Totladoh reservoir in 2010, but such rights have not been accepted as yet.[27]

Case 3: Alleged eviction of Jenu Kurubas from Nagarhole Tiger Reserve, Karnataka

Nagarhole was declared first a wildlife sanctuary in 1955 and in 2007, it was declared a tiger reserve by notifying around 643.4 sq km area as core/critical tiger habitat under Project Tiger. Finally, in 2012, the government of Karnataka notified an area of 204.6 sq km as a buffer zone of the Nagarhole tiger reserve, expanding the total area of the tiger reserve to its present 847.981 sq km. It is reported that after the introduction of the Wildlife Protection Act 1972, over 3,400 tribal families were relocated from Nagarhole Tiger Reserve but the majority of them have not been properly rehabilitated.[28] On the other hand, the state government allowed the Taj Hotel Group to build a three-star resort in the name of eco-tourism in the core area of the Nagarhole Tiger Reserve.

The tribals led by JK Thimma (52 years), one of the leaders of the Jenu Kuruba community, filed a Public Interest Litigation and in February 1997, the Karnataka High Court struck down an agreement between the Taj Group of Hotels and the Karnataka Government for setting up the resort. Since 2010 several Jenu Kuruba families who were illegally evicted from their forest villages have made several attempts to go back to Nagarhole but have been mercilessly beaten and harassed whenever they attempted such a comeback.[29]

In 2013 forest officials filed a legal case against JK Thimma for building a thatched house in his village. In 2018 the court dismissed the case and allowed the tribal leader to build his house.[30] The Jenu Kurubas applied for their rights in 2009 under the FRA, 2006, but only a few hundred claims have been settled, with thousands more rejected.[31] In March 2021, the Jenu Kurubas held a major protest against attempts to evict them and to demand their rights to live in their tiger reserve. The Forest Department retaliated by targeting leaders of the protest with false criminal charges. In May 2021, the police registered a case against six Jenu Kuruba leaders on the charges of "assaulting and using criminal force" against forest officials after a forest ranger tried to stop one of the leaders (JK Thimma) from repairing his house. [32]

Case 4: Alleged forced eviction from Similipal Tiger Reserve, Odisha

While there were 61 villages in the Similipal national park in Mayurbhanj district, the state government of Odisha decided in 1988 to relocate four villages namely Kabataghai, Jamunagarh, Jenabil and Bakua located in the core zone. Between 1994 and 2003, 72 families were relocated from Jamunagarh, Jenabil and Kabataghai villages. In 2013, families of Upper Barhakamuda and Bahaghar faced relocation, and in 2015, 47 families living in Kabataghai and 35 families living in Jamunagada were relocated to Mananda and Nabara, respectively. Many other villages have been relocated from the Tiger Reserve in between. Relocated villagers alleged that they were pressurised by the forest department to agree to the relocation.[33]

Further, in January 2020, about 110 families belonging to Particularly Vulnerable Tribal Groups, namely Mankidia and Khadia, residing in Khajuri village within the buffer area of Similipal Tiger Reserve, were relocated to a rehabilitation colony at Salaibedha in Thakurmunda block.[34] The displaced people claimed that the relocation was forceful.[35]

Case 5: Alleged forced eviction from Melghat Tiger Reserve, Maharashtra

Melghat Tiger Reserve was one of the first nine tiger reserves declared by the Government of India under Project Tiger and came into existence in 1974 as the first tiger reserve of Maharashtra.[36] In 2007, the "Critical Tiger Habitat" was notified in this Tiger Reserve. Melghat Tiger Reserve is predominately inhabited by Korku tribes.[37] In the first phase of relocation, three villages namely Bori, Koha and Kund villages were relocated during 2001-03.

During the second phase, which started in 2003, three more villages, namely Vairat, Churni and Pastalai were chosen but the Pastalai villagers did not agree to relocation, and hence 124 families from Vairat and Churni villages were shifted out. Under Phase 3, a proposal of relocation of 2,611 families from 16 villages was prepared and submitted to the Central Government for sanction. These included 172 families from Pili village and 82 families from Pastalai village.[38]

By 2020, the village of Pili was relocated, but five families refused to move out. In order to force them, the Government allegedly cut off all facilities, including mid-day meals and nutrition, to children as the Anganwadi Centre and the Primary School were shut down.[39] Similarly, when five Korku tribal families refused to move out from Pastalai village inside the Tiger Reserve, they were allegedly harassed by the Forest Department. Entry and exit to the Pastalai village were restricted. Even activists carrying relief supplies for Pastalai's residents during the COVID-19 lockdown struggled to gain access. On September 1, 2020, Raju Dhandekar and his brother Gaju Dhandekar, belonging to the Korku tribe, were arrested by the Forest Department as they headed home to their village of Pastalai, inside the Melghat Tiger Reserve in Amravati district. Both men were charged with violating the Wildlife Protection Act of 1972, allegedly destroying wildlife or forest produce inside a sanctuary. They were released on bail the next day, but the bail order restricted them from returning home.

Gaju's wife, Phulwanti, was also arrested on 9 November 2020 from her house in Pastalai. She was falsely charged for having two stumps of teak wood in her pile of firewood. Her bail order did not restrain Phulwanti from returning home, but forest guards allegedly did not allow her back into Pastalai. In December 2020, the Dhandekars told the Bombay High Court that the relocation of tribal residents from Pastalai village was "forceful eviction and involuntary relocation".[40]

In September 2017, over 1,200 tribals, including women and children from eight villages rehabilitated out of Melghat Tiger Reserve about five years ago, returned to the core area of the Tiger Reserve to press for their demands for better facilities at the places of rehabilitation. They occupied the core area for about 36 hours before they were made to leave by the forest officials.[41]

On 22 January 2019, protests by the relocated tribals turned violent, with around 40 forest guards and members of the State Reserve Police Force getting injured in a clash between tribals and forest guards after the relocated tribals returned to the Tiger Reserve demanding proper rehabilitation.[42]

The struggle of the tribals met some success when in December 2019, the District Level Committee (DLC) recognized community forest rights (CFR) under the FRA, 2006 in a 3,000-hectare area to Madizadap villages which falls under the core area of the Melghat Tiger Reserve. The decision of the DLC was decried by the Tiger Reserve authorities and wildlife conservationists.[43] Further, in June 2020, the DLC recognized individual forest claims of 76 people in Semadoh village within the core area of the Tiger Reserve.[44]



Photo above: Malur, one of the villages in the core forest area of Melghat, served a notice for relocation, Credit: Artile14.

4. Criminalization and human rights violations by forest officials

The Indian Forest Act, 1927 and the WLP Act, 1972 have effectively criminalized the way of living of the Scheduled Tribes/indigenous peoples residing in and around the forests. Anyone collecting firewood or honey or tendu leaves or fishing in the forests can be dubbed as a poacher and shot at/killed, tortured or arrested; and tribal women have been subjected to sexual harassment.

Case 1: Torture of a Korku tribal for fishing in the Melaghat Tiger Reserve in Amravati district, Maharashtra

On August 25, 2022, a tribal man identified as Ankush Gorelal Mavaskar (25 years), belonging to the Korku tribe, was allegedly beaten up and branded with a hot iron rod by the forest guards for fishing in the Melaghat Tiger Reserve in Amravati district of Maharashtra. According to the victim (Ankush), who is a resident of Dhulghat Railway, he along with two friends namely Anand Kasdekar and Pappu Chavan from the same village, had gone for fishing in a dam in Wan forest area under Akot wildlife division of Melghat Tiger Reserve. The forest staff caught them for alleged illegal fishing and tortured them inhumanly. Ankush alleged that some 7-8 forest staff/guards beat him up and burnt him with a hot iron rod. He somehow managed to escape from their clutches in an injured condition and reached his village. He was admitted to the sub-district hospital at Dharni by relatives and villagers.[45]

Photos of Ankush, obtained by IRAC, show that he suffered grievous injuries at multiple places on his body due to alleged branding with hot iron rods by the forest guards.



Photo: Ankush Gorelal Mavaskar, a tribal youth who was tortured by forest guards for fishing. Credit: Meerinews

Case 2: Torture and sexual harassment of 16 women and 8 men from the Lambada tribe by the forest guards in Amrabad Tiger Reserve in Nagarkurnool district of Telangana

On March 27, 2021, 16 women and eight men belonging to the Lambada tribe went inside the Amrabad Tiger Reserve in Nagarkurnool district of Telangana to pick Mahua flowers which is a major livelihood source for the tribals. Mahua flowers are one of the Minor Forest Produces (MFP) that the Scheduled Tribes have the right to collect from the forests under Section 3(1) of the FRA, 2006. Hence, the tribals have the right to go into forest lands of any type, including protected forests, reserved forests, Sanctuaries, Tiger Reserve, and National Parks, to collect Mahua flowers under the FRA, 2006. After collecting flowers, the Lambadas were sleeping in the forest when forest guards suddenly attacked them in the middle of the night. They allegedly forced the tribals to strip and beat them.[46]

One of the victims identified as K Patya (48 years), who received injuries on his head, told the media that "After collecting flowers, we were sleeping in the forest when officials suddenly attacked us in the middle of the night. They forced us to strip, and they started beating us. They even beat up a 70-year-old woman." [47] Instead of taking action against the accused forest guards, the action was taken against the tribals who entered into the tiger reserve to collect mahua flowers for their living. The tribals were booked under sections 27, 29, 30, 31 of WLP Act, 1972. [48]

Case 3: Arrest and false prosecution of 12 tribal women in Telangana

On June 4, 2022, twelve tribal women were arrested for allegedly encroaching upon a forest land in Mancherial district of Telangana and later booked under the WLP Act, 1972 and the court sent them to 14 days judicial remand.[49] The Forest Department alleged that these tribal women, residents of Koya Poshaguda village in Dandepalli mandal, had cut down trees in 25 acres of forest land within the Kawal Tiger Reserve (KTR). KTR field director CP Vinod Kumar said the tribals were trying to occupy the forest which is meant to protect the tiger.[50]

While the tribals of Koya Poshaguda village claimed that they have been cultivating the forest land since 2003, the forest officials claimed that the forest land was within the KTR and the tribals were trying to encroach the forest land.

Again on July 8, 2022, the forest department attempted to raze huts of tribal families at Koya Poshaguda village in order to "stop the encroachment of the Kawal Tiger Reserve". Police and forest officials resorted to brute force when the tribals prevented the demolition of their huts. In the clash that ensued, at least eight tribal women and two women forest staff were injured. Videos of the clash went viral on social media, in which forest staff were seen brutally dragging a tribal woman on the ground while her clothes got torn.[51] Five tribal women were arrested from the spot and produced before the Dhandapelli tehsildar office, and they were released on bail.[52] The National Commission for Women (NCW) took cognizance of the brutalities and directed the Chief Secretary and the Director General of Police, Telangana, to take stringent action against those involved in brutally dragging the women. The NCW has observed that as per the PoA Act, 1989, wrongfully dispossessing members of Scheduled Caste and Scheduled Tribes from their land or interfering with the enjoyment of their rights amount to an offence of atrocities and are subject to punishment under the aforesaid Act.[53]

Case 4: Shooting at a tribal named Basava and arrest in false case in Nagarhole Tiger Reserve in Karnataka

On December 1, 2021, Basava (37 years), belonging to the Jenu Kuruba tribe, was shot and injured by the forest guards allegedly in the Hunsur wildlife range of Nagarhole Tiger Reserve in Karnataka.[54] Basava went near the forests to answer the call of nature when he was shot at.[55] He sustained injuries on his left buttock and his left hand and was admitted to a hospital.[56]

The victim's wife Pushpa filed a complaint at the Bylakuppe police station on the day of incident (i.e. December 1) itself against four forest guards namely Subramani, Mahesh, Sidda, and Manju. These four forest guards and Basava had an altercation in November 2021 when the latter objected to forest staff chopping off a silver oak tree near his house.[57] Basava also corroborated this in an interview with The News Minute.[58] But no case has been registered against the accused forest guards.

On the other hand, Basava has been falsely framed in sandalwood smuggling case. The police registered a case against him at Bylakuppe police station under sections 379, 506, 353, 332, 307 of Indian Penal Code (IPC) and under sections 86 and 87 of the Karnataka Forest Act based on the complaint filed by the forest department.[59]

Nagarhole Tiger Reserve Director Mahesh Kumar claimed that the forest staff, based on a tip-off, had gone near Cauvery Block CPT-1 Reserve Forest to nab three men who were chopping down a sandalwood tree and that they attacked the forest staff.[60] Mr Kumar further claimed that "In self-defence, the staff opened fire and Basava was injured while two others, Dilip and Satish, are absconding." [61]

The claim of firing in self-defence has been rejected by the local villagers. Budkattu Krishikar Sangh's secretary J.D. Jayappa told the media that the case against Basava was totally false and fabricated. Basava was attending a self-help group meeting with other members of his community on December 1 and also posed for a group photo at 10.21 am, and a few minutes later, he was shot by the forest guards "not inside the forest, but near the main road, where the sandalwood tree is not found." [62] He alleged that the forest officials planted the sandalwood in Basava's field to frame him and that this practice has been followed by the forest officials many times in the past.[63]

5. Conclusions and Recommendations

As the Government is increasing its conservation efforts to increase the number of tigers by creating more and more Tiger Reserves which often overlapped with the territories inhabited by the Scheduled Tribes, the Centrally-sponsored Project Tiger will only increase forced evictions, dispossession from land and forest resources, criminalization, torture and harassment of the already impoverished tribals living in or near the Tiger Reserves. In a welfare state like India, the State has constitutional obligations to ensure the protection of indigenous peoples and their wellbeing through rigorous compliance of the laws and international human rights standards.

In view of the above, the Indigenous Rights Advocacy Centre (IRAC) makes the following recommendations:

- All the fundamental rights and other human rights of the Scheduled Tribes/indigenous peoples as enshrined in the Constitution of India, international human rights instruments, including United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Forest Rights Act, 2006, PESA Act of 1996, Wild Life (Protection) Amendment Act, 2006, LARR Act 2013 among others should be rigorously followed and applied by the Government of India and the State/UT Governments;

- Recognize and ensure the Free Prior Informed Consent (FPIC) of the Scheduled Tribes/indigenous peoples during the process of identification of Tiger Reserves/Protected Areas and their relocation;
- Fully and properly implement the FRA, 2006 and settle all the claims submitted under the FRA within a specific timeframe; and ensure that no Scheduled Tribe/indigenous person shall be subjected to automatic eviction from Tiger Reserves/forests even after their claims are rejected;
- The concerned Government should make public the name of experts who draw conclusions that the presence of tribals shall cause irreversible damage to the tigers/tiger habitats and that there is no option of co-existence and how such conclusions have been reached by the experts;
- Before creating core areas or critical tiger habitats/critical wildlife habitats or before relocating the Scheduled Tribes from the Tiger Reserves/forests, all the conditions as provided under section 38V(5) of the Wild Life (Protection) Amendment Act, 2006 and section 4(2) of the Forest Rights Act, 2006 should be strictly complied with. This included taking the FPIC of the Gram Sabhas concerned.
- No forcible eviction of Scheduled Tribes/indigenous peoples should be carried out under any circumstances including in the name of the conservation of tigers. The Central Government/ State government should not withdraw any development scheme/ facility, including schools, Anganwadi Centre, water facilities, health services etc for those families who may refuse to relocate outside the Tiger Reserves, and they should be allowed to live there peacefully;
- The State government and the Central Government should ensure all the basic facilities such as housing, schools, health care centres, water facility, sanitation, and livelihood opportunities at the resettlement villages. Agricultural land should be mandatorily provided with an irrigation facility and a motor pump.
- After relocation is carried out, the District Magistrate/Deputy Commissioner of the concerned district should regularly monitor and evaluate the rehabilitation and resettlement status of the displaced families and take concrete actions to improve their living standards at the resettlement villages; and
- The state governments should create Development Fund in the name of the tiger reserve consisting of funds generated from tourism and other sources and provide financial assistance to the displaced families out of such funds.

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The Indigenous Rights Advocacy Centre (IRAC) is a not-forprofit organization based in New Delhi. The vision of the organization is to promote, protect and defend the rights and interests of the tribal communities/Adivasis/Indigenous Peoples in India. As a means of achieving its objectives, IRAC seeks to combine practice, research, advocacy and collaboration as an effective method to promote, protect and defend the individual and collective rights of Indigenous Peoples.

Cover Photo: A woman belonging to the Mising tribal community of Assam, India.
Mising peoples are victims of eviction from Kaziranga National Park.
Cover photo Credit: Survival International.

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