

Recommendations
of the National Workshop on
Critical Tiger Habitats and Critical
Wildlife Habitats

8-9 May, 2008
held at the Indian Institute of Science, Bangalore

organized by
Centre for Ecological Sciences, Karnataka State Forest Department and the
Future of Conservation Network

Background

This set of Recommendations has emanated from a two-day National Workshop on Critical Tiger Habitats and Critical Wildlife Habitats held at the Indian Institute of Science (IISc) on 8th and 9th May 2008. This workshop was organized by the Centre for Ecological Sciences (IISc), Karnataka State Forest Department and the Future of Conservation Network (FoC)¹. It was attended by officers from State Forest Departments, scientists, academics, social activists and a number of groups working on wildlife issues.

The workshop was an attempt to understand the legal provisions relating to Critical Tiger Habitats and Critical Wildlife Habitats as given in the Wild Life Protection (Amendment) Act 2006 (WLPA) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights Act) 2006 (STOTFDA). Participants gathered to gain clarity on the countrywide status of their implementation, discuss key issues and concerns regarding their application and work out actions towards effective implementation including the use of better science/knowledge and consultative methods. Through dialogue, we hoped to arrive at a common process to secure these habitats in the interest of wildlife while ensuring the livelihood rights of forest-dwellers.

During the Workshop, participants discussed at length the various implications and interpretations of Critical Tiger and Wildlife Habitats and the practical difficulties with their implementation. A number of documents were used as inputs to the discussion. These included, other than the Acts themselves, the MoEF Guidelines and the FoC's Guidelines for identifying and notifying Critical Tiger and Wildlife Habitats.

At the end of the workshop, most were in agreement that in spite of the extensive differences that exist state-to-state in socioeconomic, cultural contexts and other issues, these Acts could be used as a tool to secure wildlife from serious threats such as mining, expressways and large scale infrastructure. It was also understood that, for various

¹ The Future of Conservation in India (FoC) is a network of ecological and social organizations and individuals committed to effective and equitable conservation of biodiversity. FoC's objective is to foster dialogue and engagement in complex conservation issues, and help tackle the increasing threats that both biodiversity and people's livelihoods face. This includes joint action on areas of agreement, and attempts at evolving common understanding on issues where there are differences. FoC is not an organization, but a forum where organizations and individuals can meet, dialogue, and take joint actions. For further details, pl. contact arshiyabose.research@googlemail.com.

reasons, including for effective conservation itself, the livelihoods concerns of forest-dwelling communities have to be integral to the Protected Area (PA) management process. While such livelihoods in some cases also have impacts on biodiversity, it is the massive thrust towards unsustainable economic growth that is the greatest threat. Critical Wildlife Habitats, if applied with the recommendations below could be one tool to safeguard biodiversity against this threat.

Recommendations in brief ²

(pl. see the details below for a full comprehension of these points)

1. Identification and management of Critical Tiger Habitats (CTH) and Critical Wildlife Habitats (CWH) needs to be based on sound knowledge and democratic processes.
2. The process should not be hurried; it should be time-bound, but with at least one year to take into account the complexities involved.
3. The criteria for identifying CTH and CWH should involve a number of factors relating to ecosystems and species, and be based on the Precautionary Principle. Areas important for wildlife outside current protected areas (PAs) should also be considered for CWH or other similar status.
4. The process for identifying such areas, must involve knowledgeable people from all sectors including those with traditional knowledge; and the feasibility of protection, and relevant socio-economic factors should also be considered.
5. Committees for identification of CWHs should be set up both at the level of the state and of the PA and its landscape, and involve local experts including from local communities (the MoEF Guidelines on CWH need to be changed to involve more than one local expert).
6. All further processes including impact assessment, assessment of co-existence possibilities, and of relocation, must be in full consultation with the people to be affected.
7. In the process of determining continuation or modification of rights within a CTH or CWH, appropriate methods need to be employed including thumbrules acceptable to all those involved, that indicate impacts of human use on the conservation values of the proposed areas.
8. The CTH/CWH process should be used as an opportunity to move towards co-management, which includes all relevant rightsholders and stakeholders in decision-making, starting with a few pilot sites where the capacity exists and conditions are appropriate, and keeping in mind that this may not be an appropriate strategy for all PAs.
9. Given that in many or most PAs including within CWHs, there will continue to be human presence including in many cases settlements, strategies for co-existence need to be urgently developed; these would include encouraging activities that are beneficial or neutral for the relevant conservation values of the area, and alternatives for those that are detrimental.
10. Where it is determined that co-existence is not possible, relocation options need to be considered with appropriate processes of consultation and consent. Both the process and package of relocation need considerable enhancement.

² Not all participants were in agreement with each of the recommendations articulated here. However, these recommendations represent the views of the majority of the participants.

RECOMMENDATIONS³

Participants of the *National Workshop on Critical Tiger Habitats and Critical Wildlife Habitats*, welcome the protection of areas of crucial importance for wildlife as envisaged by the provisions of ‘Critical Tiger Habitats’ under the WLPA and ‘Critical Wildlife Habitats’ under the STOTFDA. The scope of the above provisions to strengthen conservation, including securing the habitats of many wildlife species and simultaneously the livelihoods of forest-dwelling communities is recognized as extremely significant. Critical Wildlife Habitats once notified, cannot be diverted for any other use (as per Section 4(2) of STOTFDA), which is the strongest provision for conservation available in any law in India.

The provisions for Critical Tiger and Wildlife Habitats, however, require the use of scientific and local knowledge for identification, and a democratic process of consultations during the entire process from identification to notification to dealing with people’s rights to management and monitoring.

In view of this, we recommend the following.

i. Time frame

Given the need for a thorough, knowledge-based, democratic process, it is critical that the Central and State Governments do not hastily undertake the identification and notification of Critical Wildlife Habitats and the implementation of already notified Critical Tiger Habitats. This process needs to be time-bound, but with at least one year for completion.

ii. Criteria for Identifying Critical Wildlife Habitats

A key presumption operating here is that the decision on which PAs, how much and which parts of a specific PA and its landscape would be declared Critical Wildlife Habitats will be on a case-by-case basis.

We recommend that these areas be identified based on a set of ecological and biological criteria and in relation to the conservation goal of the specific PA.

Ecological and biological criteria would include sites that are unique or crucial for:

1. Exclusive representation of a Biome
2. Rare and/or restricted range species
3. Endemic species
4. Key wintering or stepping stone sites for migratory species
5. Species richness (relative to biogeographic context)
6. Status of a particular species or habitat using established importance/threat criteria, e.g. IUCN Red List, Ramsar Sites, World Heritage Sites.

³ Not all participants were in agreement with each of the recommendations articulated here. However, these recommendations represent the views of the majority of the participants.

7. Ecosystem service providers i.e. pollinators, seed dispersers
8. Key habitats for ecosystem integrity e.g. riparian forest in arid area, catchment areas for watersheds
9. Unique geomorphologic features and scientific archives of evolutionary processes or climate change e.g. fossiliferous rocks and peat bogs
10. Wild relatives of important crops/domesticated animals
11. Current roosting, breeding and display sites e.g. lekking sites for floricans
12. Species range during periods of stress, e.g. severe drought years and including adaptation to climate change
13. Regeneration sites for endangered plants or plants that are characteristic of that PA, e.g. regeneration of shola trees within shola-*Acacia* plantation matrix
14. Areas with relatively high densities of wild animals and relatively low human densities

Given that the above criteria could be interpreted to include or exclude nearly all parts of the country, an additional factor of feasibility of protection could be considered. Areas that are of high biodiversity value and low human use, would be high on the priority list, but those with high biodiversity value and intense human use would also need to be considered.

We recommend that essential areas outside National Parks and Sanctuaries that are also crucial for wildlife, such as corridors, be identified as part of the current process. These can be considered for declaration as Critical Wildlife Habitats after going through the required process, or where this is inappropriate, they can be given legal backing through other various options in the WLP (including as Conservation and Community Reserves), the Biological Diversity Act (as Biodiversity Heritage Sites), the STOTFDA (as community forests), and the EPA (as eco-sensitive areas).

We strongly advise that the Precautionary Principle⁴ is used when there is genuine absence of adequate information on the above criteria. General rules for the application of this principle are however very difficult to provide; local stakeholders and rights-holders will need to apply the principle based on site-specific situation and knowledge, giving the benefit of doubt to actions that are least likely to cause harm. Such an approach however

⁴ It is recognized that uncertainty is an integral characteristic of complex ecosystems. In conservation, many situations require for urgent action and in these cases, conservation decisions are made based on great uncertainties. Requiring all information to be available before making conservation decisions and knowing the exact outcomes of those decisions before undertaking them is neither practical nor feasible, particularly when capacity and resources are limited.

In these circumstances, it is helpful to adopt the "precautionary principle" which advises that an absence of full scientific certainty shall not be used as a reason to postpone measures where there is a risk of serious or irreversible harm to both wildlife and local communities. Additionally, if there is a doubt about an animal's or plant's exact conservation status, the strongest protective measures should be chosen. In these circumstances, it is crucial to adopt an adaptive management approach, where conservation decisions are periodically reviewed and amended in the light of new information.

However, given that the precautionary principle could be used as a rationale to support conservation interventions that are detrimental to local communities, this principle should be applied in a manner that involves all stakeholders.

(Source: "The Precautionary Principle in Natural Resource Management and Biodiversity Conservation": Workshop Final Report. Fourth Regional Session for Asia of the Global Biodiversity Forum, South-East Asia Manila, The Philippines. June 20-23 2004
 URL: http://www.pprinciple.net/publications/PP%20Workshop%20Report_Manila%20GBF.pdf)

should also not become an excuse to continue in a state of ignorance; all attempts must be made to generate the knowledge required to take more informed decisions.

In the long run, a regular process of setting up and updating digital and other databases, needs to be instituted within the forest/wildlife agencies and others involved in the process. This could be used to help monitor all actions relevant to wildlife areas that are prioritized in this process.

iii. Process to Identify and Notify Critical Wildlife Habitats

It is crucial to note that a Critical Wildlife Habitat is being identified because the area is critical for wildlife. Such identification should not be made with the *intention* of modifying rights. Any modification of rights, if required, should occur only *after* the PA-level sub-committee has conducted an objective evaluation of human impact on wildlife and wildlife habitat.

We emphasize that the process to identify Critical Wildlife Habitats is undertaken on a case-by-case basis and considered as an opportunity to evaluate the ecologically representative quality of our current PA system. In addition, the following should be factored into the process:

- The process to identify Critical Wildlife Habitats should be at the level of PAs and their landscapes so that it is situated within varying local contexts.
- It should engage scientists (ecologists, biologists, geologists, hydrologists, social scientists etc.), professionals, holders of traditional knowledge and other primary stakeholders at PA level.

If the impact evaluation (for which appropriate criteria need to be developed and applied) reveals that the rights of certain groups need to be modified, we urge that various social considerations are brought into the process. Within this, crucial steps would be to:

- Consider traditional use of sacred sites, species and other entities within the proposed Critical Wildlife Habitat.
- Cultural sensitivities, e.g. particularly vulnerable groups, access to culturally important sites or where displacement from PAs could cause cultural disintegration of the community.
- Socioeconomic factors, e.g. process of modifying or relocating *bona fide* rights holders under STOTFDA or when the number of people affected is large.

iv. Constitution of Committees for Critical Wildlife Habitats

We strongly recommend that Sections 3.3 and 3.4 of the Ministry of Environment and Forest's '*Guidelines to notify Critical Wildlife Habitat including constitution and functions of the Expert Committee, scientific information required and resettlement matters incidental thereto*' issued in October 2007, be interpreted to mean that one State Level Expert Committee and a number of PA-Level Expert Sub-Committees will be set up for the purpose of identifying these areas.

▪ Constitution of State-Level Expert Committee:

It is recognized that it will not be feasible for a committee at the state level to carry out the CWH identification and process in a detailed, scientific and consultative manner as is

necessary. Therefore, the primary function of the State committee should be to oversee PA-level sub-committees. This will involve collating and harmonizing the local committee's recommendations. This committee must include the following:

- Relevant government departments, other than Forest and Tribal Welfare, e.g. Revenue, Water, Soil etc.
- State-level scientific institutions and NGOs
- Representatives of state federations of community organizations

▪ **Constitution of PA-Level Expert Sub-Committee:**

The primary function of this sub-committee will be to directly carry out the Critical Wildlife Habitat identification process in PAs and their landscapes, including demarcating the area based on various scientific criteria, evaluating the human impact on the ecosystem and engaging local communities in the entire process.

For the purpose of initial identification of the CWH, this sub-committee must consist of:

- A number of local experts from local communities and institutions, and not only one member as specified by MoEF's Guidelines. In this context, a local expert could be an individual familiar with local issues and/or have traditional knowledge regarding the biodiversity of the area.
- Representatives of local communities who currently engage in active conservation practices within/adjacent to proposed Critical Wildlife Habitats.
- Members from existing conservation-related committees, both Government or community-initiated
- Additionally, but not replacing the above, local NGOs and researchers who have knowledge of the area.

For further processes of considering social factors, carrying out consultations, and so on, the sub-committee must then also take on board:

- Primary stakeholders and rights-holders who are *legitimately* dependent on the forest, i.e. having customary traditional rights that are recorded or unrecorded.
- Those who are likely to be most significantly affected by demarcation of the critical tiger/wildlife habitat.

We emphasize that to allow for true representation of various stakeholders, the community members of this sub-committee be elected by the communities themselves, from the relevant gram sabhas.

We suggest that the MoEF's Guidelines on Critical Wildlife Habitats be amended to allow for the above recommendation.

v. Institutions for Facilitating Co-Management of PAs

We recommend a gradual move towards co-management of PAs, in which processes of decision-making, management and planning of each PA will involve primary stakeholders and rights-holders (those residing in the area or substantially dependent on the area's resource and/or active in the area's conservation). Such co-management institutions could be used to bring in more effective conservation and greater accountability into PA management. This move must be accompanied by building capacity amongst the local communities and official agencies to effectively carry out co-management. It needs to be

kept in mind that not all PAs may be appropriate for full co-management, and in many there may be a requirement for much greater capacity and preparation before attempting such a move.

Co-management of PAs has been recommended in the National Wildlife Action Plan 2000, is a commitment by India as part of the Convention on Biological Diversity Program of Work on PAs and has been recommended in the Environment & Forests report of the 11th 5-year Plan. Additionally, in many PAs, local communities will themselves seek this when they claim rights to manage forests under Section 3(i) of STOTFDA, “the right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use.” It is therefore necessary for states to be prepared with ideas and plans to establish co-management institutions.

We recognize that a number of legal spaces already exist for some level of collaboration (though none are co-management institutions as they do not involve joint-decision making). Some such provisions are as follows:

- Institutions mandated in the WLPA such as Sanctuary Advisory Committees and Tiger Foundation committees should be set up immediately and used as a platform to move towards co-management.
- Existing community level institutions such as Van Surakshan Samitis (VSS), Eco-Development Committees (EDCs) and other self-initiated institutions should be also be used for this purpose.
- Local self-governance institutions
- District panchayat committees
- Committees for the protection of wildlife, forest and biodiversity required to be set up by gram sabhas under Section 5 of STOTFDA and Section 4(e) of the Rules, should be facilitated.

We urge that eventually the above institutions are used towards full co-management of PAs, which will involve a clear delineation of powers, rights, responsibilities of various partners in the co-management committees. We also recognize that to achieve this, significant building of capacity is needed in official agencies, communities and NGOs.

To initialize this process, we suggest that some PAs are adopted as pilot sites for co-management (especially those that have a state of readiness amongst local stakeholders, or where there are clear constraints and/or failure in management by forest authorities). This can be extended to other PAs based on relevant learning and/or need, and based on local community willingness and readiness.

vi. Strategies for Achieving Coexistence

We recognize that given the 2006 amendment to the WLPA and the recently enacted STOTFDA, the coexistence of forest-dwelling communities and conservation interests is no longer an option, but an inevitability in areas where relocation is either not necessary or not consented to by local communities. In order to facilitate coexistence and direct this in ways that could lead to effective conservation and livelihoods security, it is important to consider the following factors:

- It is crucial to note that under these Acts, full vesting of rights has to take place in each PA and in forests outside PAs, including all Critical Tiger Habitats and Critical Wildlife Habitats.
- Issues of changing aspirations and population growth/decline trends of traditionally forest-dwelling communities needs to be taken seriously. While STOTFDA allows the construction of basic amenities, we strongly urge that large-scale developments should not be allowed within PAs or other areas critical for wildlife. Processes of negotiation between government agencies and the relevant communities informed by traditional and modern knowledge of the ecology of the area need to determine what can or cannot be allowed.
- Local, traditional practices that are beneficial for wildlife need to be actively encouraged.
- Livelihood alternatives or sustainable harvesting technologies (as in many cases these ‘destructive’ practices could be beneficial to wildlife if regulated, modified or scaled-down) need to be provided for destructive practices, e.g. mass hunting or hunting of threatened species. The extent of encroached land and the socio-economic factors driving such incursions in each PA and its landscape needs to be urgently assessed.
- Mafia or vested commercial interests are a reality in many areas and this needs to be taken seriously through appropriate wildlife protection measures, include joint patrolling, breaking crucial links in the mafia chains and providing alternatives to local people that are involved.
- Issues of human-wildlife conflict have to be factored into co-existence strategies, including site-specific measures for allowing control of problem animals/species. In addition, the cause of human-wildlife conflict must be identified and addressed. In many cases, the conflict could be attributed to external factors (e.g. loss of elephant corridors to mining projects) and not as a direct result of people living within PAs. In such cases, coexistence should not be ruled out.
- Full use must be made of all available knowledge, including local/traditional/ and modern knowledge to determine how best to achieve co-existence.
- A regular review of rights and activities must be undertaken by the co-management institutions to determine what human activities should be modified i.e. either reduced or increased.
- Regular monitoring must be undertaken as objectives of the PA and its landscape. All human activities within the Critical Wildlife Habitat must benefit or not adversely affect the species/habitat for which the PA was declared. An activity that adversely affects the priority species/habitat cannot be termed as coexistence even if it benefits other biodiversity within the PA. For example, tree planting in a grassland ecosystem may benefit some species, but adversely affect bustards for which the area is being conserved.

vii. Strategies for Relocation

We recommend that the relocation of traditional resident communities should be adopted only after the following processes have already occurred and been found inadequate for relevant wildlife and wildlife habitat (as indicated in the legal provisions for CTHs and CWHs):

1. Objective evaluation of impacts of human activities on wildlife and wildlife habitat (and impacts of wildlife on humans within PAs). Given that a thorough evaluation

may in many situations be time-consuming, the use of thumb-rule indicators that all members of the CWH sub-committee are agreeable to, may be necessary. The best available methods for doing this should be employed, including those available from traditional knowledge, and care will need to be taken not to allow abuse of such methods to take arbitrary decisions based on *assumptions* of the impact of human use. Simultaneously, comprehensive long-term studies need to be initiated to gauge any mistakes that may be made in the use of thumb-rules, taking on board the need for adaptive management in all processes.

2. Negotiating specific modifications in human activities, through a fully consultative process.
3. Providing appropriate livelihood alternatives that are feasible.

When carrying out relocation and resettlement of forest-dwelling communities, it is critical to consider the following:

- Memorandums of Understanding regarding the details of relocation package, including extent of resettlement facilities must be signed between the community and the relevant government agency prior to initiating the resettlement process.
- The consent of both the household (must include women) and the gram sabha to relocation must be taken in writing. There should also be a provision for them to withdraw consent if it is found that the prerequisites for rehabilitation are not in place, but with safeguards against withdrawing consent on flimsy grounds; the role of an independent agency in all this would be useful.
- The relocation process must be initiated after the State Government has acquired the required funds and the relevant committees have been constituted and met at least once; this is to ensure that there are not too many delays once relocation is announced and initiated.
- In order to avoid interminable delays in the payment of funds to affected individuals, deterrents must apply, e.g. an annual interest on the delayed amount could be considered.
- PA Managers or relevant authorities must have the option to outsource either some components or the entire relocation process if they feel they are not equipped to carry it out single-handedly. This should happen through local community institutions, and/or NGOs and/or independent agencies that are accountable to the communities being impacted.
- The same relocation package, building in appropriate special measures for disprivileged sections such as landless and women, must be used to resettle all households in a given community to avoid conflict and resentment between landed and landless families.
- In situations where the assets owned by a family exceed the relocation package, the State Government should be responsible for additional funds that exceed the 10 lakh budget provided by the Central Government.
- The new site for resettlement should be acceptable to the affected communities and as far as possible culturally and ecologically similar to the site from which the relocation occurred.
- Various mechanisms for reviewing the quality of resettlement should be undertaken after the relocation process, e.g. through a PA Rehabilitation Board.
- The cash allotted under the relocation package must be enhanced for difficult areas where costs may be higher.

- With respect to cash compensations, additional measures must be taken to ensure that individuals do not occupy any further forestland once they have already been given funds, e.g. in Madhya Pradesh, the final installment of the cash compensation is proposed to be released only when the affected individual purchases a permanent asset.
- Although, the National Tiger Conservation Authority's (NTCA) and MoEF's 'Format for Preparation of Village Relocation Plan from Core/Critical Tiger Habitats' provides an option between a 'cash only' and 'relocation and rehabilitation by Forest Department', we recommend that 'land for land' be considered the first option and 'cash only' only as a last resort, except where it can be independently verified that communities prefer the cash option and conditions are in place to ensure they are not exploited or do not lose out in the process.
- Independent institutions should be involved in monitoring the entire process of relocation and rehabilitation.

viii. Conclusion

As participants of this workshop, we request the National Tiger Conservation Authority and the Ministry of Environment and Forests to incorporate the above recommendations into existing CTH and CWH Guidelines and all future material on these critical habitats. It is crucial that the distinct but complementary roles of the central and state governments be clarified in this process.

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