

Avenging Champawat: Adivasis and Tigers in the age of Extinction

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Introduction

During the era of British colonization in India, a notorious “man-eating”¹ tiger once lurked about. In *No Beast So Fierce*, Dane Huckelbridge writes the true story of an Indian² tigress named Champawat who stalked and killed approximately 500 people from 1900 to 1907.³ Tigers “are animals which generally change direction at the first sign of a human” however at the beginning of the twentieth century, “a change so profound and upsetting to the natural order was occurring in Nepal and India as to cause one such tiger to not only lose its inborn fear of humans altogether but to begin hunting them...”⁴ Champawat was injured by a bullet which prevented her from hunting her natural prey. She was forced to survive as best she could in an environment that was turned upside down by colonization.

Hucklebridge discusses Britain’s “paternalistic” policies which forced Indian people to rely on the British to save them from other “man-eaters.”⁵ Champawat was eventually killed by Jim Corbett, a European settler born in India, who later devoted his life to tiger conservation.⁶ Intermixed within the narrative of Champawat’s deadly reign, is the story of the powerful impact British colonialism had specifically on tigers, the tribal peoples, and the surrounding environment. Hucklebridge asserts “if rural Indian populations had become helpless in the face of apex predators, it was largely because colonial policy had rendered them such.”⁷

After Champawat’s death, other “man-eaters” injured by bad hunters, left without proper prey to hunt, and a shrinking habitat, continued to plague the Indian landscape killing thousands of people.⁸ Yet even today the “tiger – people conflict” has not stopped.⁹ In the

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¹ At the end of 2019 the NTCA met and determined that it would eliminate the use of the word “man-eater” which would be replaced with “dangerous tiger” and eliminate the hiring of private hunters. *See* Balu Pulipaka, “NTCA Resolve to No Longer Hire Private Hunters or Use the Label ‘Man Eater’”, *The Wire*, November 15, 2019, <https://thewire.in/environment/ntca-avni-tigress-man-eater-tranquiliser-gun>

² The Indian Tiger’s name was “rechristened” to the Royal Bengal Tiger in honor of Prince of Wales, Edward VII. For the purposes of this article it will be referred to as the Indian Tiger. *See* Mukun Belliappa, “A Natural History of Colonialism” *New England Review*, Vol 36, No 3, 2015, <http://www.nereview.com/vol-36-no-3-2015/mukund-belliappa/>

³ *See* Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019).

⁴ Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019) at pg 3

⁵ R. Raj Rao, “No Beast So Fierce: The Champawat Tiger and Her Hunter, the First Tiger Conservationist by Dane Huckelbridge: In the forests of the night” *The Hindu*, May 11, 2019, <https://www.thehindu.com/books/no-beast-so-fierce-the-champawat-tiger-and-her-hunter-the-first-tiger-conservationist-by-dane-huckelbridge-in-the-forests-of-the-night/article27089762.ece>

⁶ *See* Gadhvi, Gheerawo, Walti, Jordania, and Quevedo de Oliveira, *Behind Jim Corbett’s Stories: An Analytical Journey to ‘Corbett’s Places’ and Unanswered Questions*, Logos Publishers, (2016).

⁷ Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019), 131

⁸ Mukun Belliappa, “A Natural History of Colonialism” *New England Review*, Vol 36, No 3, 2015, <http://www.nereview.com/vol-36-no-3-2015/mukund-belliappa/>

majority of cases, these interactions have caused rather unpleasant deaths. Interestingly, when these situations do occur, public opinion in India is mixed with some who advocate for the tiger's life and others who advocate for its death.

This article was inspired by Huckelbridge's book and invites the reader to reflect on the progress India has made since the departure of its colonial rulers. This article is separated into three parts; the first part revisits the role of Britain in India and its' green imperialism agenda. This part will examine the impact that British policies had on people and tigers. The next part of the article will discuss India's response to the colonial structures which were created and its quest to save the tiger from extinction. Finally, part three will look at how this situation needs to be re-shifted again in order to redress the wrongs of the past and assist Adivasi¹⁰ people and help the Indian tigers rebound from extinction.

I. Extinction in Context

India's long held reverence for the tiger appeared to be lost once the British colonized India. The "divinity" and "necessity" of tigers has been a "tenant of faith" in India since ancient times.¹¹ In the *Mahabharata*, an ancient Indian Hindu epic, references are made to the tiger.¹² Within India there are many groups that pay homage to the tiger in various ways. "In Central India, the Baigas, or Tiger Clan, consider themselves the cat's descendants. North of Mumbai, the Warli tribe erects wooden tiger statues for use in fertility rites: At harvest time, they decorate them with images of entwined snakes, trees, the moon, stars and the sun—and donate part of the year's harvest to the tiger as a symbol of life and regeneration."¹³ A certain symbiosis existed between tigers and people. Indian people learned to live with the tiger, accommodate its behavior wherever and however they reasonably could. There are historical accounts of villages that adopted and fed tigers so that they would not harm people.¹⁴

The rulers of India also held an affinity for the tiger. Tigers were considered royal property.¹⁵ The tigers were adopted as "powerful symbols" of Mughal rule.¹⁶ As far back as the 16th century, Mughal Emperor Jala-us-Din Muhammad Akbar began a royal tradition of

⁹ See Associate Press, "More than 1,000 people killed in India as human and wildlife habitats collide" The Guardian, August 1, 2017, <https://www.theguardian.com/environment/2017/aug/01/over-1000-people-killed-india-humans-wildlife-territories-meet>

¹⁰ Adivasis means "original inhabitants." This term will be used interchangeably with "indigenous" a term used by the United Nations. See UN General Assembly, United Nations Declaration on Rights of Indigenous Peoples, resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295, available at: <https://www.refworld.org/docid/471355a82.html>

¹¹ Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019), 93

¹² Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019), 94

¹³ Sharon Guynup, "Why Have Tigers Been Feared and Revered Throughout History?" National Geographic, April 9, 2014, <https://blog.nationalgeographic.org/2014/04/09/why-have-tigers-been-feared-and-revered-throughout-history/>

¹⁴ See Robert Marks, "Asian Tigers: The Real, the Symbolic, the Commodity," *Nature and Culture*, Vol 1, No 1, (Spring 2006), Berghan Books, pp 76.

¹⁵ Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019), 96.

¹⁶ Joseph Sramek, "Face Him like a Briton": Tiger Hunting, Imperialism, and British Masculinity in Colonial India, 1800-1875, *Victorian Studies*, Vol. 48, No. 4 (Summer, 2006), pp. 659-680, 659

bagh shikar (tiger hunting) until the dynasty fell in 1857.¹⁷ The Mughal tradition had “minimal effect on tiger populations or the habitats in which tigers lived. Held at widely dispersed forests on a rotating schedule, and conducted primarily with bows and spears, these hunts were never intended to delete the tiger population or rid a region of predators.”¹⁸ The forests and tigers represented power for the rulers. Unfortunately, there would be a dramatic shift under British rule in India as the tiger became a “cliché of colonial life.”¹⁹

When The East India Trading Company²⁰ had arrived in India, India had approximately a fifth of the world’s total population and “was producing about a quarter of global manufacturing; indeed it in many ways it was the world’s industrial powerhouse and the world’s leader in manufactured textiles.”²¹ India’s success changed in the hands of the British Empire which “effectively turned the entirety of its foreign possessions into an engine of revenue, which meant exploitation of natural resources on a massive, multifaceted scale.”²² While this reflected the broader impact of colonialism – the Adivasis and the tigers faced enormous challenges to their existence due to exploitative British practices.

a. Adivasis

In medieval England, William the Conqueror introduced the “royal forest” model to “protect the deer for his own hunting” and these laws continued under Henry II.²³ As long as the deer was protected and a profit could be made for the royal treasury, “all sorts of clearing” was allowed.²⁴ Even during this time period the goal of protecting the royal forests was to “manage” the forest resources, as opposed to “total preservation.”²⁵ As time went on, through successive kings and queens, England’s appetite for using forest resources

¹⁷ Sharon Guynup, “A Concise History of Tiger Hunting in India” National Geographic Society, March 10, 2014, <https://blog.nationalgeographic.org/2014/03/10/a-concise-history-of-tiger-hunting-in-india-2/>. The British crown would directly rule over India beginning in 1874, after the dissolution of the East India Company (see note 17).

¹⁸ Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019), 96

¹⁹ Mukun Belliappa, “A Natural History of Colonialism” New England Review, Vol 36, No 3, 2015, <http://www.nereview.com/vol-36-no-3-2015/mukund-belliappa/>

²⁰ For a brief overview of the East India Trading Company see Erin Blakmore, “How the East India Company became the world’s most powerful business” National Geographic, September 6, 2019, <https://www.nationalgeographic.com/culture/topics/reference/british-east-india-trading-company-most-powerful-business/>. See also UK Parliament, “East India Company and Raj 1785 -1858” <https://www.parliament.uk/about/living-heritage/evolutionofparliament/legislativescrutiny/parliament-and-empire/parliament-and-the-american-colonies-before-1765/east-india-company-and-raj-1785-1858/> (accessed on January 4, 2020).

²¹ William Dalrymple, *The Anarchy: The Relentless Rise of the East India Company*, Bloomsbury Publishing, London, 2019, pg 14

²² Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019), 112

²³ Charles Young, “Conservation Policies in the Royal Forests of Medieval England.” *Albion: A Quarterly Journal Concerned with British Studies*, vol. 10, no. 2, 1978, pp. 95–103, 96, www.jstor.org/stable/4048336.

²⁴ Charles Young, “Conservation Policies in the Royal Forests of Medieval England.” *Albion: A Quarterly Journal Concerned with British Studies*, vol. 10, no. 2, 1978, pp. 95–103, 96, www.jstor.org/stable/4048336.

²⁵ Charles Young, “Conservation Policies in the Royal Forests of Medieval England.” *Albion: A Quarterly Journal Concerned with British Studies*, vol. 10, no. 2, 1978, pp. 95–103, 96, www.jstor.org/stable/4048336.

continued to grow and as a result forest resources became precious commodities that helped to bloat the British economy.²⁶

While England faced dwindling forest resources at home, it was perhaps the need for more resources that caused the British to seek control over Indian forests through a mix of physical (“fencing the forests”²⁷) and legal barriers. Severe restrictions of forest use were placed on communities and those who once had “unrestricted” access.²⁸ The physical separation of indigenous communities from their native areas was a critical step in Britain’s green imperialism agenda.

The British created the Forest Department which allowed for the complete use and regulation of the forest per British authority.²⁹ The Forest Department was given power through laws such as the Forest Act of 1865, later amended in 1878, to remove “ambiguities” about property rights.³⁰ The idea of conservation was integrated into these exclusions. For instance, the 1878 Act “aided in taking away all preexisting rights of communities and tribes living in those forests because the latter were believed to be leading lifestyles that were intrinsically hostile to the natural environment.”³¹ False narratives were spread regarding forest dwellers and how they had unsustainable practices, thereby necessitating British intervention in saving the environment from havoc.³² To counteract this, the British depicted themselves as a “generous state” by granting “concessions” to the communities.³³

The British also utilized the criminal legal regime to control forest areas and Adivasis. There was a general law, Criminal Tribes Act 1871, which allowed for a “tribe, gang, or class” to be labeled “criminal.”³⁴ This law took aim at those tribes who would be considered nomadic by modern standards. It also targeted people who were economically disadvantaged. Further, the Forest Acts criminally penalized villages which utilized the forests. “The most serious problem confronted by the state was how to reconcile the

²⁶ Bibi van der Zee, “England’s forests: a brief history of trees” the guardian, July 26, 2013, <https://www.theguardian.com/travel/2013/jul/27/history-of-englands-forests>

²⁷ Prasanta Das, “Jim Corbett’s ‘Green’ Imperialism,” *Economic and Political Weekly*, Vol. 44, No. 15 (Apr. 11 - 17, 2009), pp. 20-22, <https://www.jstor.org/stable/40279127>

²⁸ Prasanta Das, “Jim Corbett’s ‘Green’ Imperialism,” *Economic and Political Weekly*, Vol. 44, No. 15 (Apr. 11 - 17, 2009), pp. 20-22, <https://www.jstor.org/stable/40279127>

²⁹ Prasanta Das, “Jim Corbett’s ‘Green’ Imperialism,” *Economic and Political Weekly*, Vol. 44, No. 15 (Apr. 11 - 17, 2009), pp. 20-22, <https://www.jstor.org/stable/40279127>

³⁰ Prasanta Das, “Jim Corbett’s ‘Green’ Imperialism,” *Economic and Political Weekly*, Vol. 44, No. 15 (Apr. 11 - 17, 2009), pp. 20-22, <https://www.jstor.org/stable/40279127>

³¹ Vandana “Swami, Environmental History and British Colonialism in India: A Prime Political Agenda,” *The New Centennial Review*, Vol. 3, No. 3, coloniality’s persistence (fall 2003), pp. 113-130, 124, <https://www.jstor.org/stable/41949868>

³² Vandana Swami, “Environmental History and British Colonialism in India: A Prime Political Agenda,” *The New Centennial Review*, Vol. 3, No. 3, coloniality’s persistence (fall 2003), pp. 113-130, 124, <https://www.jstor.org/stable/41949868>

³³ A. K. Negi, et al, “The Effects of Colonialism on Forests and the Local People in the Garhwal Himalaya,” *Mountain Research and Development*, Vol. 17, No. 2 (May, 1997), pp. 159-168, 167 <https://www.jstor.org/stable/3673830>

³⁴ Criminal Tribes Act 1871, <http://ccnmtl.columbia.edu/projects/mmt/ambedkar/web/readings/Simhadri.pdf> (access January 5, 2020).

contradictory claims of forest conservation and management, on the one hand, and, on the other, the unchecked forest use for local needs that was causing problems of law and order and other disturbances.”³⁵

The British did not stop at physical separation and punishment of forest use. Forced labor was used throughout the forests as an “administrative convenience.”³⁶ The use of forced labor appeared to be common since “slaves were valued by the East India Company both for their labor potential.”³⁷ Additionally, poor tribes “were denied precious and scarce sources of protein and other foods - not to mention the interruption or extinction of cultural customs associated with the forest, such as ritual hunting, certain interpretations of the agricultural cycle, etc.”³⁸ Thus, cultural extinction of groups became common as the British continued forest exploitation.

Forests “were integrated into the commercial circuit of timber production through improved transportation networks. In addition, and very importantly, commercially valuable varieties of trees were cultivated at the expense of other forest resources that may have been more useful for the inhabitants of the forest.”³⁹ Through the Forest Act of 1865 “pressure” was put on environmental resources so that the railway could be fueled by “the natural jungles.”⁴⁰ This made sense since “Britain was the first country where the growing use of firewood and charcoal caused the forest cover to shrink so much that by the late eighteenth century there was no longer sufficient biomass fuel, which had also become very expensive.”⁴¹ Thus, shrinkage of forest areas inevitably impacted the tiger, as this was its habitat.

³⁵ A. K. Negi, et al, “The Effects of Colonialism on Forests and the Local People in the Garhwal Himalaya,” *Mountain Research and Development*, Vol. 17, No. 2 (May, 1997), pp. 159-168, 167
<https://www.jstor.org/stable/3673830>

³⁶ A. K. Negi, et al, “The Effects of Colonialism on Forests and the Local People in the Garhwal Himalaya,” *Mountain Research and Development*, Vol. 17, No. 2 (May, 1997), pp. 159-168, 163, referencing Pathak 1980 and Gairola 1936, <https://www.jstor.org/stable/3673830>

³⁷ Bennett, Michael (2016) *The East India Company, Transnational Interactions, and the Formation of Forced Labour Regimes, 1635-1730*, pg 12. Master of Arts by Research (MAREs) thesis, University of Kent. See Val Plumwood, “Decolonizing Relationships with Nature” *Decolonizing Nature: Strategies for Conservation in a Post-colonial Era*, Eds. William Adams and Martin Mulligan, Earthscan Publications, NY, (2003), discussing how colonization theory used to exploit people also applied to the surrounding environments.

³⁸ Vandana Swami, “Environmental History and British Colonialism in India: A Prime Political Agenda,” *The New Centennial Review*, Vol. 3, No. 3, coloniality's persistence (fall 2003), pp. 113-130, 121,
<https://www.jstor.org/stable/41949868>

³⁹ Vandana Swami, “Environmental History and British Colonialism in India: A Prime Political Agenda,” *The New Centennial Review*, Vol. 3, No. 3, coloniality's persistence (fall 2003), pp. 113-130, 120,
<https://www.jstor.org/stable/41949868>

⁴⁰ Vandana Swami, “Environmental History and British Colonialism in India: A Prime Political Agenda,” *The New Centennial Review*, Vol. 3, No. 3, coloniality's persistence (fall 2003), pp. 113-130, 119,
<https://www.jstor.org/stable/41949868>

⁴¹ Marjolein 't Hart and Peter Boomgaard, “Globalization, Environmental Change, and Social History: An Introduction,” *International Review of Social History*, Vol. 55, SUPPLEMENT 18: Globalization, Environmental Change, and Social History (2010), pp. 1-26, 21, Cambridge University Press,
<https://www.jstor.org/stable/26405416>. See also Andrew Wear, “The Prospective Colonist and Strange Environments: Advice on Health and Prosperity” *Cultivating the Colonies: Colonial States and their Environmental Legacies* eds. Ax, et al., Ohio University Press, Athens, (2011), discusses the relationship between Britain, India, and the environment.

b. Tiger Hunting

Dane Huckelbridge reflects that it was a “[f]ull century of disastrous ecological management in the Indian subcontinent that drove [the tiger] out of the wild forests and grasslands it should have called home.”⁴²

Deforestation and the expansion of the railway inevitably would push apex predators, like the tiger, to seek sources of food and shelter outside of forest areas and into human habitats. Tigers then turned into a problematic, but opportunistic, issue for the British. “The existence of tigers in the wild was viewed, both symbolically and literally, as a direct challenge to British hegemony. Overcoming that challenge was an act of conquest – of colonization – and it was very much encouraged by the colonial government.”⁴³ The solution to this problem was the creation of the elite industry of tiger hunting, which was really an expansion of *bagh shikar*. Tiger hunting enforced British paternalism. It became another way of “protecting” the Indian population from the dangers the tiger posed. This was depicted in British cultural magazines during that time period. For example:

“Lawrie Todd, a contributor for *Oriental Sporting Magazine*, warned in an 1831 article that tigers often “skulked into a thick bush” while waiting to attack their prey. Similarly, William Rice warned readers of his 1857 tiger hunting memoir that tigers preferred not to “attack a large body of people well together” but rather to “select any solitary individual” as their prey. British Army Captain J. T. Newall even derided the tiger in his 1866 memoir for being “as deceit.”⁴⁴

In order to encourage the destruction of tiger “vermin” financial rewards were introduced to hunters – including Indians – who were successful at exterminating the species. Money was given for various parts of the tiger, but more monies were given for tiger skins.⁴⁵ This formulation and systematization of “vermin eradication” policies created a horrible impact on the tiger populations. “During 1879 – 88 alone, the colonial government’s bounty system had funded the killing of 16,573 tigers.”⁴⁶ Ironically, the British needed another system to prevent the rapid decimation of the tiger as they feared “there would be no game left for hunting.”⁴⁷ Therefore, a permit system was introduced and required for hunting. “Permits were rarely, if

⁴² Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019), 4 and 33

⁴³ Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019), 104

⁴⁴ Joseph Sramek, “Face Him like a Briton”: Tiger Hunting, Imperialism, and British Masculinity in Colonial India, 1800-1875, *Victorian Studies*, Vol. 48, No. 4 (Summer, 2006), pp. 659-680, 666, <https://www.jstor.org/stable/4618910>. See also Vijaya Ramadas Mandala, *Shooting a Tiger: The Big-Game Hunting and Conservation in Colonial India*, Oxford University Press, (2019), discussing British “fixation” on the decimation of tigers.

⁴⁵ Joseph Sramek, “Face Him like a Briton”: Tiger Hunting, Imperialism, and British Masculinity in Colonial India, 1800-1875, *Victorian Studies*, Vol. 48, No. 4 (Summer, 2006), pp. 659-680, <https://www.jstor.org/stable/4618910>

⁴⁶ Vijaya Ramadas Mandala, *Shooting a Tiger: The Big-Game Hunting and Conservation in Colonial India*, Oxford University Press, pg 2019.

⁴⁷ Om Prakash, “WILDLIFE DESTRUCTION: A LEGACY OF THE COLONIAL STATE IN INDIA” *Proceedings of the Indian History Congress*, Vol. 67 (2006-2007), pp. 692-702, 698, <https://www.jstor.org/stable/44147988>

ever, granted to Indians and not even automatically to all Europeans; this system not only deepened racial divisions between Britons and Indians but also placed considerable power over hunting in India after 1878 in the hands of Forest Department officials.”⁴⁸ It is sensible to conclude that British hunting policies and even, poaching,⁴⁹ contributed to the rapid decline of the Indian tiger and creation of “man-eaters” in India.

It is important to note that while these actions took place in India, Britain was keen to promote an international agenda on conservation. Britain took action with two unsuccessful treaties. The London Convention of 1900 was written to preserve “various forms of animal life” in Africa.⁵⁰ This treaty did not receive enough ratification to become anything meaningful. Britain tried again with the 1933 London Convention, dubbed the “Magna Carta of wildlife conservation” which mainly focused, again, on protecting the flora and fauna of Africa.⁵¹ Eventually these treaties would give way to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).⁵²

After the British departed from India, India appeared determined to dismantle colonial frameworks that were put in place. Sadly, these efforts on some level have benefitted the tiger but not indigenous peoples.⁵³

II. Recuperation and Repetition

Indian independence was riddled with many political, cultural, and economic changes. After independence India attempted to dismantle the colonial practices that were instituted in theory – against tribal communities and tigers. In reality the framework under which protection for tribal people exists has not changed from colonial times unlike the framework for tigers. These frameworks have been created in separate and distinct ways and are not intertwined. The key to saving the tiger may lie with the integration of wildlife, forest, and tribal frameworks.

a. Forests and Forest Dwellers

Up until 1935 Britain still exercised control over tribal areas. After a series of successive acts, in 1935 the British passed the Government of India Act which created an all India

⁴⁸ Joseph Sramek, “Face Him like a Briton”: Tiger Hunting, Imperialism, and British Masculinity in Colonial India, 1800-1875, *Victorian Studies*, Vol. 48, No. 4 (Summer, 2006), pp. 659-680, <https://www.jstor.org/stable/4618910>

⁴⁹ Kamakshi Ayyar, “How India’s Conservationists Are Fighting to Save Half of the World’s Tigers” *TIME*, July 28, 2018, <https://time.com/5345610/global-tiger-day-tigers-india-conservation/>

⁵⁰ Convention Designed to Ensure the Conservation of Various Species of Wild Animals in Africa, Which Are Useful To Man or Inoffensive, 1900, available at: <https://iea.uoregon.edu/treaty-text/1900-preservationwildanimalsbirdsfishafricaentxt> (access February 1, 2020).

⁵¹ British India partially acceded to the London Convention in 1939. This Convention was superseded with the African Convention on Conservation of Nature and Natural Resources in 1968. Convention Relative to the Preservation of Fauna and Flora in their Natural State, London 1933, <https://www.jus.uio.no/english/services/library/treaties/06/6-02/preservation-fauna-natural.xml> (access February 1, 2020).

⁵² See Peter Sand, *Whither CITES? The Evolution of a Treaty Regime in the Borderland of Trade and Environment*, 1 *EJIL* (1997) 29 – 58.

⁵³ Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019), 36

Federation. Control over tribal areas, however, was still under the realm of the King who was able to exercise rights by “treaty, grant, usage, sufferance or otherwise in and in relation to tribal areas.”⁵⁴ Subsequently, after Indian independence, autonomy over these lands was not given back to tribal peoples. The 1952 National Forest Policy stated “communities near forests should not override the national interests, that in no event can the forest dwellers use the forest wealth at the cost of wider national interests, and that relinquishment of forest land for agriculture should be permitted only in very exceptional and essential cases.”⁵⁵ This extension of British colonial policy meant that the “national interest” equated to profit before people. Years later, in 1980 The Forest Conservation Act made it mandatory that the Government of India approve any state decision to divert land for “non-forestry” purpose.⁵⁶ In 1988 India launched the National Forest Policy. The objectives of this policy were to work with “local stakeholders” and the “conservation of natural heritage and genetic resources.”⁵⁷ As if all of these laws and policies were not enough, India attempted to create a new National Forest Act⁵⁸ which aimed to harmonize the Forest Rights Act (FRA) of 2006.⁵⁹ Naysayers argued that this is an extension of the same colonial policy but in new clothing.⁶⁰ The Government announced withdrawal of the draft amendment to the Act “to remove any misgivings about taking away the rights of tribals and forest dwellers.”⁶¹

The FRA plays a pivotal part in the tensions that exists between communities and tigers. In 2006, in an effort to finally rectify colonial abuses, India passed the FRA. “The Act makes provisions for recognizing and giving the forest rights to forest-dwelling scheduled tribes and other traditional communities residing in such forests for generations but whose rights

⁵⁴ Government of India Act, 1935, Section 8 c. Other portions of the Act discussed the King’s reach over tribal affairs regarding “defence and ecclesiastical affairs” and “expenditures. Accessed on December 12, 2019, http://www.legislation.gov.uk/ukpga/1935/2/pdfs/ukpga_19350002_en.pdf

⁵⁵ Joshi Gopa, “Forest Policy and Tribal Development” Cultural Survival Quarterly Magazine, June 1989, <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/forest-policy-and-tribal-development>

⁵⁶ A.K. Mukerji, “Forest Policy Reforms in India – Evolution of the Joint Forest Management Approach” Food and Agriculture Organization of the United Nations, <http://www.fao.org/3/XII/0729-C1.htm>

⁵⁷ A.K. Mukerji, “Forest Policy Reforms in India – Evolution of the Joint Forest Management Approach” Food and Agriculture Organization of the United Nations, <http://www.fao.org/3/XII/0729-C1.htm>. National Forest Policy 1988, Government of India Ministry of Environment and Forests New Delhi, No. 3-1/86-FP, December 7, 1988, https://mpforest.gov.in/img/files/Policy_NFP.pdf

⁵⁸ The legal regime surrounding the forest policies created by the Indian government makes it impossible for tribal communities let alone the everyday citizen to keep up with changes. Old laws are not necessarily repealed; just more words and amendments appear making things completely obtuse. Supposedly, the new policy aims to simplify things, but does not appear to shift the framework critiqued in this article from colonization, given the litigation around the Forest Rights Act of 2006.

⁵⁹ Mayank Aggarwal, “Government unveils draft national forest policy” livemint, March 17, 2018, <https://www.livemint.com/Politics/YKRe5VogEJnpFzUdFKU0OJ/Government-unveils-draft-national-forest-policy.html>.

⁶⁰ Prasanna Mohanty, “Draft Indian Forest (Amendment) Bill 2019: Arming State to undermine rights and wellbeing of tribals” India Today, August 7, 2019, <https://www.indiatoday.in/news-analysis/story/draft-indian-forest-amendment-bill-2019-arming-state-to-undermine-rights-and-wellbeing-of-tribals-1578054-2019-08-07>

⁶¹ ANI, “Govt has withdrawn draft for amendment of Forest Act confirms Javadekar” Business Standard, November 15, 2019, https://www.business-standard.com/article/news-ani/govt-has-withdrawn-draft-of-amendment-of-forest-act-prakash-javadekar-119111501071_1.html

could not be recorded.”⁶² The grant of rights is not automatic and the person who claims entitlement to these rights must prove so under the FRA.⁶³ The FRA created the appearance of a huge win for tribal peoples, but has unfortunately proven to do the complete opposite. Indian state governments have been slow to implement the FRA. Other laws and regulations which have been passed by the national government have diluted any potential achievements the FRA could make.⁶⁴

Recently, an extensive drama⁶⁵ played out regarding alleged encroachment into forest lands by tribal people. The saga appears to have ended, for now, with a decision by the Indian Supreme Court.⁶⁶ The Court ordered states to fulfill its obligations and order evictions of those who were encroaching on forest lands.⁶⁷ Some scholars suggest that the increased activist role the Supreme Court of India has played in environmental conservation has created more problems, as the 2019 situation of the FRA illustrates.⁶⁸ The FRA is riddled with issues which set back tribal communities and is not the ideal tool that India believes it to be, specifically when it comes to addressing old colonial frameworks.⁶⁹

Unfortunately, there are noteworthy examples which highlight the bigger problem with India’s legal regime on wildlife and forest dwellers. The Wildlife Protection Act 1972 (WPA) allows for state governments to declare sanctuaries and wildlife habitats as they see fit. Notice, per Indian law, must be given when such an action is taken. After the passage of

⁶² Mayank Aggarwal, “Forest Rights Act: A decade old but implementation remains incomplete” Mongabay, December 13, 2018, <https://india.mongabay.com/2018/12/forest-rights-act-a-decade-old-but-implementation-remains-incomplete/>

⁶³ Asavari Sharma, “Why India’s Forest Rights Act is discriminatory against non-tribals” The Wire, July 2, 2018, https://www.business-standard.com/article/economy-policy/why-india-s-forest-rights-act-is-discriminatory-against-non-tribals-118070200116_1.html

⁶⁴ Mayank Aggarwal, “Forest Rights Act: A decade old but implementation remains incomplete” Mongabay, December 13, 2018, <https://india.mongabay.com/2018/12/forest-rights-act-a-decade-old-but-implementation-remains-incomplete/>

⁶⁵ See Nitin Sethi, “Activists come out with ads to slam forest Act” Times of India, October 22, 2007, <https://timesofindia.indiatimes.com/india/Activists-come-out-with-ads-to-slam-forest-Act/articleshow/2481798.cms?referral=PM>

⁶⁶ Whether the decision is good or not remains to be seen. See Ramki Sreenivasan, “The Recent Supreme Court Order on Forest Rights Act (FRA) Does not Affect Genuine Claimants” Conservation India, August 5, 2019, <https://www.conservationindia.org/articles/fra-sc>

⁶⁷ *Wildlife First & Ors v. Ministry of Forest and Environment & Ors.* Writ Petition Civil No. 109/2008, http://www.indiaenvironmentportal.org.in/files/file/Forest-Rights-claims-SC-Order_13-Feb-2019.pdf

⁶⁸ “For example, in 2000 the Supreme Court of India restrained state governments from removing deadwood from PAs...The Supreme Court has continued to assume unprecedented powers and this has further complicated the already complex forestry laws in India.” Archi Rastogi, et al. “Saving the Superstar: A Review of social factors affecting tiger conservation in India” *Journal of Environmental Management*, February 15, 2012, 328 – 340, 331-332. See also Michael Faure and A.V. Raja, “Effectiveness of Environmental Public Interest Litigation in India: Determining the Key Variables” 21 *Fordham Envtl. Law Rev.* 239, Fall 2010.

⁶⁹ See Ashish Aggarwal, “Implementation of Forest Rights Act, changing forest landscape, and ‘politics of REDD+’ in India, *Resources, Energy and Development* 8(2): 131-148. See also Eleonora Fenari and Neema Pathak, “The Status of the Forest Rights Act (FRA) in Protected Areas of India” A Draft Report Summary, (November 2017), <https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/Summary-Final-Implementation-of-FRA-in-PAs.-Final-14.11.2017-as-printed.pdf>

the FRA, it was determined by the authorities who work on tiger related issues that certain lands will be deemed “critical” for the tigers. Based on the initial evaluation the tribal peoples who resided on these lands were unofficially threatened and harassed with eviction and made to leave from demarcated areas.⁷⁰ In fact, the amount of violence in the name of conservation has been on the rise in India. In Assam, around November 2017, a “posse of 1,500 policemen” evicted 700 families in Amchang Wildlife Sanctuary by “razing houses, demolishing schools and places of worship, and injuring women and children in the process.”⁷¹ Another example is discussed in a study that was completed 10 years after the implementation of the FRA. In Odisha, which claims to “be one of the most advanced states in implementing the FRA,”⁷² villages within the tiger reserves that were awarded rights under FRA have been relocated without just compensation and in complete contradiction of the FRA.⁷³ Essentially the colonial laws and officials who enforce these laws create “conservation refugees.”⁷⁴

The WPA also prohibits hunting without a license, establishes protected areas, and protects and manages wildlife habitats among other objectives.⁷⁵ The WPA was amended in 1982, 1986, 1991, 1993, 2002, and 2006. It was the 2006 amendment which created the National Tiger Conservation Authority (NTCA). The NTCA is designed to promote the survival of the Indian tiger in addition to working with the tribal populations.⁷⁶ There is an ongoing effort to revamp the WPA in order to bring it in line with other international treaties and increase further penalties in response to poaching. However, it is clear that the WPA needs to be brought in line with the National Forest Act and FRA. These acts need to incorporate the role of tribal communities in wildlife protection and forestry management.

Tribal communities within India represent a vulnerable group of people. It is evident from history and even today that tribal communities have “been most sacrificed in the great nation-building project called India. These and other similar communities have been displaced, often brutally, from their ancestral forests, fields, and livelihoods to make way for one big project after another – for dams, mines, urban expansion, and infrastructure projects. When they have resisted, and there are innumerable cases of this, they have been physically

⁷⁰ Campaign for Survival and Dignity, “Violations of Forest Dwellers’ Rights in Tiger Reserves” Draft note July 2009 (accessed January 5, 2020).

⁷¹ Souparna Lahiri, “Saving tigers, killing people” Al Jazeera, July 6, 2018, <https://www.aljazeera.com/indepth/opinion/saving-tigers-killing-people-180703110004941.html>

⁷² Community Forest Rights, “Odisha: Promise and Performance of the Forest Rights Act, 2006: The Tenth Anniversary Report” 2016, pg 7, http://rightsandresources.org/wp-content/uploads/2017/05/Promise_Performance_FRA_Odisha.pdf

⁷³ Community Forest Rights, “Odisha: Promise and Performance of the Forest Rights Act, 2006: The Tenth Anniversary Report” 2016, pg 22, http://rightsandresources.org/wp-content/uploads/2017/05/Promise_Performance_FRA_Odisha.pdf

⁷⁴ Nitin Rai, “India’s efforts to save its tigers have turned some Adivasi communities into conservation refugees” Scroll.in, August 12, 2019, <https://scroll.in/article/933391/indias-efforts-to-save-its-tigers-have-turned-some-adviasi-communities-into-conservation-refugees>

⁷⁵ Arup Poddar, “Effectiveness of Forest and Wildlife Laws in India” Imperial Journal of Interdisciplinary Research, Vol 3, Issue 4, 2017, pg 383, <http://www.onlinejournal.in/IJIRV3I4/058.pdf>

⁷⁶ National Tiger Conservation Authority/Project Tiger “Objective of the NTCA” https://projecttiger.nic.in/content/112_1_ObjectiveoftheNTCA.aspx (accessed January 4, 2020).

assaulted and sometimes killed by forces of the state that are meant to protect them.”⁷⁷

While some argue that forced relocation of indigenous communities have come harder to do, it is alleged that “the forest department achieves its goals by putting a livelihood squeeze on the people who live within these reserves.”⁷⁸ Supposedly, the Indian government has not collected data on the amount of forced evictions it has made. A 2019 Reuters report indicated that “...data collected by the advocacy group Housing and Land Rights Network showed the government destroyed at least six homes and forcibly evicted 30 people each hour in India in 2017.”⁷⁹

Forced evictions of the magnitude violate international human rights standards and laws that India has voted in favor of or ratified. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in Article 8 states that redress must be provided for lands which are taken. Further, UNDRIP Article 10 prohibits forcible removal from lands and territories and any relocation must involve “free, prior, and informed consent” of those concerned.⁸⁰ These articles and similar ones are enshrined within the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5, 6); International Covenant on Civil and Political Rights (Article 1, 2, 12); International Covenant on Economic, Social, and Cultural Rights (Articles 11, 15); Convention on the Elimination of all Forms of Discrimination against Women (Article 14); and the Convention on the Rights of the Child (Articles 16, 29, 31).

While the goals of protecting tribal communities need significant alignment between theory and practice, the situation concerning the tigers shows somewhat of a brighter side, yet the tigers also face dark challenges.

b. Tigers

From 1947 to 1950, the new political autonomy of India did not change the attitude towards the tiger. “Shikar packages” were sold for affluent people to continue to kill tigers for sport.⁸¹ Given the continued decline of the tiger population it was not until 1968 the government enacted a ban on tiger hunting.⁸² As a result of international discussions and attention to the decline of tigers, in 1970 the national government made an absolute

⁷⁷ Pankaj Sekhsaria, “Conservation in India and the Need to Think Beyond ‘Tiger vs Tribunal’” *Biotropica*, Vol. 39 No 5, pgs 575-577, 576 (2007).

⁷⁸ Nitin Rai, “India’s efforts to save its tigers have turned some Adivasi communities into conservation refugees” *Scroll.in*, August 12, 2019, <https://scroll.in/article/933391/indias-efforts-to-save-its-tigers-have-turned-some-advasi-communities-into-conservation-refugees>

⁷⁹ Anuradha Nagaraj, “Enslaved for decades, indigenous Indians freed by land titles” *Reuters*, May 29, 2019, <https://www.reuters.com/article/us-india-land-migration/enslaved-for-decades-indigenous-indians-freed-by-land-titles-idUSKCN1T000L>

⁸⁰ The UN DRIP is not legally binding on state parties. During the 107th and 108th Meetings of the United Nations General Assembly of the UN DRIP, India’s representative stated his “country had consistently favoured the promotion and protection of indigenous peoples’ rights.” GA/10612, “General Assembly Adopts Declaration on the Rights of Indigenous Peoples; ‘Major Step Forward’ Towards Human Rights for All, Says President” September 13, 2007, <https://www.un.org/press/en/2007/ga10612.doc.htm>.

⁸¹ Tobias Lanz, *The Life and Fate of the Indian Tiger*, ABC CLIO, Santa Barbara pg 26 (2009)

⁸² Tobias Lanz, *The Life and Fate of the Indian Tiger*, ABC CLIO, Santa Barbara, pg 26 (2009)

prohibition on tiger skins and products.⁸³ The shikar outfitters and other sport hunters filed suit against the national government. The Indian Supreme Court ruled in favor of the national government in 1971.

Interestingly in its ruling, the Court pointed out that the International Union for Conservation of Nature and Natural Resources (IUCN) in 1969 stated the major cause of tiger disappearances was hunting. The Court highlighted that IUCN's papers "showed that prior to 1947 there was hardly any Shikar Company like the petitioners organizing tiger hunts, and that thereafter 27 such Companies came into existence all over the country."⁸⁴ Given India's colonial environmental history, this claim is by ICUN is, at best, questionable. The Court makes no reference to the tiger's decimation under colonial rule. Awareness to historical issues would have at least shed light on the source of tension and true culprits for tiger's perilous existence.

Prime Minister Indira Gandhi took advantage of the pro-tiger momentum and passed ambitious protection plans. In April 1973 "Project Tiger," the world's largest conservation project, was launched which created tiger reserves.⁸⁵ "Tiger reserves follow a core/buffer strategy, where the core areas have the legal status of a National Park or a sanctuary, whereas the buffer areas are managed as multiple use areas. Project Tiger aims to foster an exclusive tiger agenda in the core areas of tiger reserves, with an inclusive people oriented agenda in the buffer."⁸⁶ The authority for this project is the NTCA.⁸⁷ The NTCA supervises, coordinates, and performs other functions as outlined in the WPA.

If anyone questioned the significance of the tiger by this time period, one needs to look no further than the Morichjhapni incident in the late 1970's:

"In the late 1970s hundreds of Bengali refugees (who came from present-day Bangladesh) were given shelter in Morichjhanpi, a forested island in the Sundarbans. But when tigers started attacking and killing people, the government authorities later forcibly evicted the refugees, saying that they had violated forest laws that actually enshrined greater protection for Royal Bengal tigers. The Morichjhanpi experience aroused refugees' resentment at the ill-treatment they received from the government whom they perceived as according far more resources to the tiger."⁸⁸

⁸³ *Indian Shikar Outfitters ... vs Union Of India And Ors.* on 9 February, 1971 ILR 1971 Delhi 178, para 5

⁸⁴ *Indian Shikar Outfitters ... vs Union Of India And Ors.* on 9 February, 1971 ILR 1971 Delhi 178, para 23

⁸⁵ Sudha Vasani, "Consuming the Tiger Experiencing Neoliberal Nature" *Conservation & Society*, Vol. 16, No. 4 (2018), pp. 481-492, Ashoka Trust for Research in Ecology and the Environment and Wolters <https://www.jstor.org/stable/26500661>

⁸⁶ Sudha Vasani, "Consuming the Tiger Experiencing Neoliberal Nature" *Conservation & Society*, Vol. 16, No. 4 (2018), pp. 481-492, Ashoka Trust for Research in Ecology and the Environment and Wolters <https://www.jstor.org/stable/26500661>

⁸⁷ National Tiger Conservation Authority/ Project Tiger, "Background" available at: https://projecttiger.nic.in/content/107_1_Background.aspx (accessed on November 20, 2019).

⁸⁸ Vijaya Ramadas Mandala, *Shooting a Tiger: Big Game Hunting and Conservation in Colonial India*, Oxford Scholarship UK, (2018), pg 20-21.

As of 2019, the NTCA reports that there are 50 Tiger Reserves. In addition, the numbers of tigers in each area shows a steady increase in almost every area where a reserve exists.⁸⁹ Since 1973, India has been congratulated for its success in increasing the tiger population. While some of its success, such as that in Sariska Tiger Reserve⁹⁰, has appeared to be short-lived, Prime Minister Modi has stated that India is “one of the biggest and most secure habitats of the tiger.”⁹¹ As of 2019, India is now reporting 2,967 wild tigers and estimates “over 75 percent of the world’s tiger population now resides in the country.”⁹² There are some, however, that question the increase.⁹³

Poaching appears to be the single largest threat to the Indian tiger. Recently, India’s Wildlife Crime Control Bureau reported that between 2008 and 2018, 384 tigers were killed by poachers and at the same time, 961 people have been arrested for poaching.⁹⁴ Worldwide, the tiger population has been dwindling for a period of time due to wildlife crime. Tiger parts, including tiger blood,⁹⁵ have become a valuable commodity in the illegal market. Tiger parts are claimed to have medicinal value: “whiskers quell toothaches, meat cures malaria, fat stops vomiting, blood strengthens willpower, noses sooth children’s epilepsy, teeth purge sores from man’s penis, eyeballs and bile prevent convulsions, and penises banish impotence and promote longevity.”⁹⁶ India has attempted to respond to the increase in tiger poaching.⁹⁷

The WPA lays out which acts against wildlife are considered criminal and therefore prosecutable, one of the biggest goals of which is to stop poaching.⁹⁸ However, there appears to be more issues with the WPA that needs to be addressed. In a recent study,

⁸⁹ National Tiger Conservation Authority/ Project Tiger, “Details of Tiger estimation for the year 2006, 2010, 2014, and 2018” https://projecttiger.nic.in/content/39_1_Reports.aspx (accessed on November 20, 2019).

⁹⁰ Rajat Ghai, “Sariska’s tiger reserve status needs reconsideration” Down to Earth, February 21, 2019, <https://www.downtoearth.org.in/news/wildlife-biodiversity/-sariska-s-tiger-reserve-status-needs-reconsideration--63303>

⁹¹ Niha Masih “India’s tiger population doubles in a dozen years, despite growing human-animal conflict” Washington Post, July 29, 2019, https://www.washingtonpost.com/world/indias-tiger-population-doubles-in-a-dozen-years-despite-growing-human-animal-conflict/2019/07/29/e64156be-b1d0-11e9-acc8-1d847bacca73_story.html

⁹² Niha Masih “India’s tiger population doubles in a dozen years, despite growing human-animal conflict” Washington Post, July 29, 2019, https://www.washingtonpost.com/world/indias-tiger-population-doubles-in-a-dozen-years-despite-growing-human-animal-conflict/2019/07/29/e64156be-b1d0-11e9-acc8-1d847bacca73_story.html

⁹³ See Gayathri Vaidyanathan, “India’s tigers seem to be a massive success story – many scientists aren’t sure” Nature, October 30, 2019, <https://www.nature.com/articles/d41586-019-03267-z>

⁹⁴ The Economic Times, “385 tigers killed in India in last 10 years reveals RTI” December 7, 2018, <https://economictimes.indiatimes.com/news/politics-and-nation/384-tigers-killed-in-india-in-last-10-years-reveals-rti/articleshow/66984490.cms?from=mdr>

⁹⁵ Tiger bone wine is considered a “cure all” tonic. Rachel Love Nuwer, *POACHED*, De Capo Press, NY NY, 2018, pg 296

⁹⁶ Rachel Love Nuwer, *POACHED*, De Capo Press, NY NY, 2018, pg 295

⁹⁷ “India – which currently holds about half of the world’s remaining tigers – began intercepting hundreds of pounds of tiger bones being smuggled into China” and other countries within Asia “raked in tiger bones by the tons in the 1990s.” Rachel Love Nuwer, *POACHED*, De Capo Press, NY NY, 2018, pg 297

⁹⁸ Kiran Rahalkar, “Wildlife Crime: Prosecution Hurdles” July 17, 2019, <https://www.wildlifeconservationtrust.org/wildlife-crime-prosecution-hurdles/>

researchers concluded that wildlife laws are not uniformly implemented throughout India.⁹⁹ Researchers also found that there existed prosecutorial and judicial leniency towards those who commit wildlife crimes.¹⁰⁰ The lack of uniformity and prosecutorial challenges are not unique to India. The international community must also begin to consider the framework in which “green crimes” or environmental crimes can be prosecuted as it will require a larger response.¹⁰¹

In 2005 in the *T.N. Godavarman Thirumulpad vs Union Of India & Ors* judgment the Supreme Court of India reiterated protections for wildlife enshrined in the Indian Constitution:

“Natural resources are the assets of entire nation. It is the obligation of all concerned including Union Government and State Governments to conserve and not waste these resources. Article 48A of the Constitution of India requires the State shall endeavour to protect and improve the environment and to safeguard the forest and wild life of the country. Under Article 51A, it is the duty of every citizen to protect and improve the natural environment including forest, lakes, rivers and wild-life and to have compassion for living creatures.”¹⁰²

Despite these challenges, tiger protection discourse and action continues to be elevated on a national level and the tiger remains a cultural heritage jewel of India.¹⁰³ Yet despite all the laws and all the protections for tigers, the outlook, without any sincere and monumental change, looks bleak.

III. The Road to Holistic Solutions

Given the tiger’s importance in India, it is certain that the government and related authorities will continue their vigilance in protecting Indian tigers. However, the government’s plans are fragmented and shortsighted. These plans lack an appropriate and unified framework that marries itself to other laws within national and international laws. One scholar echoes these sentiments as follows:

“The Indian society faces a dilemma in finding the appropriate balance between the divergent uses of its natural resources. The issue of tiger conservation is particularly

⁹⁹ Dr. Madhuker, et. al. “FINAL REPORT: Empirical Study on Implementation of Wildlife Protection Laws in India” SLS Noida Law School, pg 185 – 187, https://www.symlaw.edu.in/files/Empirical-Study-on-Implementation-of-Wildlife-Protection-Laws-FinalReport_Oct16.pdf (accessed January 4, 2020).

¹⁰⁰ Dr. Madhuker, et. al. “FINAL REPORT: Empirical Study on Implementation of Wildlife Protection Laws in India” SLS Noida Law School, pg 185 – 187, https://www.symlaw.edu.in/files/Empirical-Study-on-Implementation-of-Wildlife-Protection-Laws-FinalReport_Oct16.pdf (accessed January 4, 2020).

¹⁰¹ See Alessandra Mistura, “Is there Space for Environmental Crimes Under International Criminal Law? The Impact of the Office of the Prosecutor Policy Paper on Case Selection and Prioritization on the Current Legal Framework” 43 Colum. J. Envtl L. 181 (2018).

¹⁰² *T.N. Godavarman Thirumulpad vs Union Of India & Ors* on 26 September, 2005, Writ Petition (civil) 202 of 1995

¹⁰³ Sudha Vasan, “Consuming the Tiger Experiencing Neoliberal Nature” *Conservation & Society*, Vol. 16, No.4 (2018), pp. 481-492, Ashoka Trust for Research in Ecology and the Environment and Wolters <https://www.jstor.org/stable/26500661>

intense because it is a high-profile challenge worthy of international and domestic scrutiny. Immense financial resources are already diverted towards tiger conservation, policy decisions are being implemented and there is demand for direct and measurable results. As a result, how India meets the challenges of conserving its tigers will have valuable lessons for many other sustainable development challenges in various contexts.”¹⁰⁴

What approach could potentially shift the current dilemmas that are posed in the status quo? Not too long ago India attempted one contemporary response – rewilding.

a. Rewilding

Rewilding is largely defined as restoring the wilderness based on the regulatory roles of large predators. Three features, simplified as the three C’s, characterize rewilding, which are carnivores, core, and connectivity.¹⁰⁵ This particular theory is premised on the idea that ecosystems are maintained by top predators which in turn require “large cores of protected landscapes for secure foraging, seasonal movement, and other needs; they justify bigness.”¹⁰⁶

The first element, “carnivore”, emphasizes the necessity of protecting apex predators as they are “generally considered bellwethers of the overall health of the environment...”¹⁰⁷ The second element, “core”, is loosely defined as “continental in scale, preserving entire ecosystems” but they are to be “expanded and strictly protected, and their natural fire and flood regimes restored where possible.”¹⁰⁸ India has 50 tiger reserves, all of which would be considered under rewilding theory to be core areas. However, the problem is that these core areas do not allow the tigers to disperse; and there is a mix of human activity that takes place within the core areas. The final element, “connectivity”, bridges core areas to prevent and stop fragmentation. Fragmentation is best viewed as a patch of land, usually identified for a specific purpose. Fragmentation in this context started with British forest management policies and continued with India’s policies on tiger reserve management. As one scholar succinctly noted:

“Being a solitary and long- ranging animal, factors impeding tiger movement will have long-term consequences on reproductive fitness and population survival. Tiger movement is highly affected by landscape features, and dispersing tigers likely move through rough terrain along forested ridges, avoiding non-forest areas with high human footprint, while tiger populations are largest in locations centered on large protected

¹⁰⁴ Archi Rastogi, et al. “Saving the Superstar: A Review of social factors affecting tiger conservation in India” *Journal of Environmental Management*, February 15, 2012, 328 – 340, 337

¹⁰⁵ Michael Soule and Reed Noss, “Rewilding and Biodiversity: Complementary Goals for Continental Conservation” *Wild Earth*, Fall 1998, pg 22, <https://rewilding.org/wp-content/uploads/2012/04/RewildingBiod.pdf>

¹⁰⁶ Michael Soule and Reed Noss, “Rewilding and Biodiversity: Complementary Goals for Continental Conservation” *Wild Earth*, Fall 1998, pg 22, <https://rewilding.org/wp-content/uploads/2012/04/RewildingBiod.pdf>

¹⁰⁷ Dane Huckelbridge, *No Beast So Fierce*, William Morrow (Harper Collins) Publishers, (2019), 5

¹⁰⁸ Caroline Fraser, *Rewilding the World*, Picador (USA), pg 9

areas with extensive forest cover within and surrounding them. These results have important implications for tiger conservation and management and can be used to develop empirically supported prioritization of core areas and corridors.”¹⁰⁹

Tiger movement and connectivity between core areas allows for the “exchange of gene-flow” which is also “critical for increasing ecosystem resilience, their ability to mitigate environmental risks, e.g. by supporting ecosystem-based adaptation to climate change.”¹¹⁰ Therefore creating corridors between the core areas for the tigers would in fact allow for the population of Indian tigers to pass through to other areas in India, allowing for an increase in its kin and ending fragmentation. Finally, the connectivity of core areas using corridors may in fact cause a complete decline in the number of people-tiger conflicts since the tiger would have more access to diverse resources to survive.

Rewilding was supposedly applied in the Sariska Tiger Reserve – and failed.¹¹¹ Sariska had numerous problems which would have made any type of program fail because the appropriate studies were not completed to determine how much core area the tigers would need to have, in addition to issues concerning their mobility.¹¹² The core area itself was not isolated from human interaction. Between 2003 and 2005 India was able to calculate an increase in the number of pilgrims for religious festivals and cars that entered the reserve.¹¹³ In addition, eco-tourism in the reserves brings in more human traffic. The areas itself was unable to regenerate which caused it to be devoid of other animals (herbivores) the tiger would have depended on. Other notable problems in Sariska, according to the Tiger Task Force (specifically set up as a result of the loss of tigers in Sariska) included poachers who allegedly worked with local villagers to kill the tigers for its parts.¹¹⁴ In fact, the Tiger Task Force reported that “there is a deep hatred for the tiger among local people” due to the relocation plans that were once announced. Specifically, the pastoralists in the area “blame the sanctuary for everything – their lack of livelihood, inadequate development infrastructure in their villages, and most of all persistent harassment.”¹¹⁵ Ironically, between 2003-2005 the Sariska Reserve brought in an estimated 28-53 lakh rupees per year which was “collected by park authorities and deposited with the state government.”¹¹⁶ Another problem which was identified by the Tiger Task Force was the inaccurate reporting of the number of tigers that may have actually been in the reserve.¹¹⁷

¹⁰⁹ P. Anuradha Reddy, et al., “Tiger abundance and gene flow in Central India are driven by disparate combinations of topography and land cover” *Diversity and Distributions*, Vol. 23, No. 7/8 (July & August 2017), pp. 863-874 <https://www.jstor.org/stable/44897020>

¹¹⁰ Madhu Verma, et al “Making the hidden visible: Economic valuation of tiger reserves in India” *Ecosystem Services* 26 (2017) 236 – 244, 243

¹¹¹ Rajat Ghai, “Sariska’s tiger reserve status needs reconsideration” *Down to Earth*, February 21, 2019, <https://www.downtoearth.org.in/news/wildlife-biodiversity/-sariska-s-tiger-reserve-status-needs-reconsideration--63303>

¹¹² Rajat Ghai, “Sariska’s tiger reserve status needs reconsideration” *Down to Earth*, February 21, 2019, <https://www.downtoearth.org.in/news/wildlife-biodiversity/-sariska-s-tiger-reserve-status-needs-reconsideration--63303>

¹¹³ Government of India Tiger Task Force, “Joining the Dots” 2005, pg 14

¹¹⁴ Government of India Tiger Task Force, “Joining the Dots” 2005, pg 14

¹¹⁵ Government of India Tiger Task Force, “Joining the Dots” 2005, pg 15

¹¹⁶ Government of India Tiger Task Force, “Joining the Dots” 2005, pg 15

¹¹⁷ Government of India Tiger Task Force, “Joining the Dots” 2005, pg 14

India appears to be rectifying where it went wrong in Sariska. At the end of 2019, the Indian government has begun to consider conservation plans which “include mandatory inclusion of safe passages for tigers in all infrastructure projects.”¹¹⁸ However, India has shown it can attempt different solutions but not in a holistic manner. As highlighted by the Legal Initiative for Forest and Environment, the impact of development projects are not considered on forests and wildlife, despite the alternatives.¹¹⁹ Anecdotally, India recently gave permission to a Discovery Channel show with Bear Grylls to shoot two episodes in Bandipur Tiger Reserve in an area which is deemed strictly off limits to people. The episodes look as though they will feature two Indian celebrities and Prime Minister Modi.¹²⁰ Rewilding is not going to work given the current priorities, legal regime, and development plans in India. A more integrated framework which allows tribal communities to lead the strategy for saving tiger, may be the missing and necessary element needed for reversing the possible trend of extinction facing the tiger.

b. Integrating Indigenous Rights and Wildlife Protection

The Soliga are regarded as forest dwellers and they possess in-depth knowledge regarding the forests and tigers.¹²¹ The Soliga also worship the tiger as a deity.¹²² In 1974 the Soliga tribe was evicted from their native lands (BR Hills) in Karnataka state, in an effort by the state to protect wildlife. Their lands were declared a sanctuary. This action was done under the legal umbrella of the WPA. In 2006 under the FRA, forest officials were able to restrict “access and collection of non-timber forest produce.”¹²³ In 2011 their native lands, once declared a sanctuary was declared a tiger reserve. That same year the court ruled in favor of the Soliga this time securing their rights to their habitat and non-timber collection. After the success of the Soliga litigation, the tiger population in the BR Hills has “increased rapidly.”¹²⁴ This is an extraordinary accomplishment given the fact that after the 2011

¹¹⁸ Mirror Now, “Centre working on conservation plan to map safe corridors for tigers across India” December 6, 2019, <https://www.timesnownews.com/mirror-now/in-focus/article/centre-working-on-conservation-plan-to-include-safe-corridors-for-tigers-across-india/523918>

¹¹⁹ Mayank Aggarwal, “High rate of green clearances continue, put forests and wildlife at risk” Mongabay, December 11, 2019, <https://india.mongabay.com/2019/12/high-rate-of-green-clearances-continue-puts-forests-and-wildlife-at-risk/>

¹²⁰ Rohini Swamy, “Why conservationists are upset with Rajinikanth, Akshay Kumar & Bear Grylls of Man vs. Wild” The Print, January 30, 2020, <https://theprint.in/india/why-conservationists-are-upset-with-rajinikanth-akshay-kumar-bear-grylls-of-man-vs-wild/356724/>

¹²¹ See Aditi Patel, “Meet the Soliga Tribe, India’s Natural Botanists” Youth Ki Awaaz, September 6, 2019, <https://www.youthkiawaaz.com/2019/09/meet-the-soliga-tribe-indias-natural-botanists/>

¹²² DTE Staff, “Tiger population doubles after tribals allowed to coexist in tiger reserve” December 11, 2015, <https://www.downtoearth.org.in/news/wildlife-biodiversity/tiger-population-doubles-in-reserve-that-allowed-tribals-to-stay-52093>

¹²³ Amoolya Rajappa, “How a tribe in Karnataka fought and won a legal battle to stay in a tiger reserve” Scroll India, October 5, 2018, <https://scroll.in/article/896580/how-a-tribe-in-karnataka-fought-and-won-a-legal-battle-to-stay-in-a-tiger-reserve>

¹²⁴ DTE Staff, “Tiger population doubles after tribals allowed to coexist in tiger reserve” December 11, 2015, <https://www.downtoearth.org.in/news/wildlife-biodiversity/tiger-population-doubles-in-reserve-that-allowed-tribals-to-stay-52093>

decision, the BR Hills became the first tiger reserve where tribal people were allowed to stay.¹²⁵

During the FRA forced evictions debacle, specific experts within the UN Office of the High Commissioner for Human Rights reiterated:

“[y]et again research shows that the presence of indigenous peoples actually improves tiger populations. For generations, India’s tribal peoples have lived in harmony with the country’s wildlife, protecting and managing vital natural resources. It is because of their sustainable stewardship that India still has forests worth conserving. To truly protect wildlife, recognising the rights of forest guardians would be a far more effective strategy than rendering them homeless...”¹²⁶

Indigenous communities within India depend on forest areas where the tigers are present.¹²⁷ Therefore, a community based approach appears to be an appropriate solution. One successful method is used in Namibia. A conservancy is a legal entity which grants ownership and responsibility allowing limited farming or grazing on lands predominately managed for wildlife. Income from activities occurring in these particular areas are “pooled and the community collectively determines how it should be spent.”¹²⁸ However, this will not work if India does not dismantle the laws and attitudes à la colonialism which still exist. The integration of tribal culture and rights in one national unified framework will assist in developing high levels of protection for wildlife – particularly the tiger. Protection for the tiger is not mutually exclusive with protection of the tribal way of life and cultural heritage.

Consideration also needs to be given to those tribal groups that genuinely do not want to stay in tiger reserve areas. In one village 350 tribal families asked for appropriate compensation to be relocated from a tiger reserve area as monsoons and the people-tiger conflict led to the “collective decision” to ask for relocation, despite the fact that the villagers had been there for four generations.¹²⁹

¹²⁵ DTE Staff, “Tiger population doubles after tribals allowed to coexist in tiger reserve” December 11, 2015, <https://www.downtoearth.org.in/news/wildlife-biodiversity/tiger-population-doubles-in-reserve-that-allowed-tribals-to-stay-52093>

¹²⁶ UN Office of the High Commissioner for Human Rights, “India must prevent the eviction of millions of forest dwellers, says UN experts” July 4, 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24786>

¹²⁷ Pankaj Sekhsaria, “Conservation in India and the Need to Think Beyond ‘Tiger vs Tribunal’” *Biotropica*, Vol. 39 No 5, pgs 575-577, 576 (2007). *See also* Archi Rastogi, et al. “Saving the Superstar: A Review of social factors affecting tiger conservation in India” *Journal of Environmental Management*, February 15, 2012, 328 – 340, 334

¹²⁸ Caroline Fraser, *Rewilding the World*, Picador (NY), pg 204.

¹²⁹ P. Oppili, “Thengumarahada village ready to relocate” *The Hindu*, September 2, 2014, <https://www.thehindu.com/news/national/tamil-nadu/thengumarahada-village-ready-to-relocate/article6370554.ece>

Wildlife trafficking represents a huge challenge in protecting the remaining tiger population in India (regardless of the numbers).¹³⁰ Corruption is one of the largest contributors to allowing the illegal wildlife trade to succeed.¹³¹ Given the national government's attitudes towards the tribal peoples it places the tiger in a vulnerable position because it has fewer protectors. India's tigers are also vulnerable given the geographic location to China. Vanda Felbab Brown in her book *The Extinction Market* states, "China in particular has become like a great vacuum cleaner, sucking natural environments empty of wildlife – not only in China and its neighbors, but also in Africa and elsewhere..."¹³² The creation of the "Belt Road Initiative" will undo the work that India has done to protect the tiger as the economic strategy could pose "a number of potential environmental impacts and could threaten biodiversity" notably in Southeast Asia.¹³³

Therefore, a community-based approach may also be the solution to stopping wildlife trafficking. The amount of territory and financial resources it would take to prevent and stop this particular crime are enormous. India is familiar with this kind of method as it has implemented a successful community based response in West Bengal to protect the rhino.¹³⁴ A community based approach to respond to wildlife trafficking is consistent with several policy developments within the international community. The London Declaration (2014) emphasized the need to work with local communities. The Kasane Statement (2015) emphasized strengthening legislative frameworks to incorporate the rights of local people in combatting the illegal wildlife trade. The Brazzaville Declaration (2015), the Hanoi Statement (2016), and even the UN Sustainable Development Goal 15, echo these same sentiments.¹³⁵

In addition to integrating the tribal voices into protection and combatting wildlife trafficking, India must also make an effort to reduce and eliminate the stigma and falsehoods spread regarding forest dwellers. The tribes that were declared "criminal" by the British in 1871, and later became "denotified tribes", are a great example of how these vulnerabilities created by colonial legislation are still not rectified and can have adverse consequences to a greater goal. These tribal communities have been driven to a "destitute existence" which leaves them vulnerable to aiding and abetting organized crime syndicates making millions off of the trade of tiger parts.¹³⁶ Further as the FRA studies have shown

¹³⁰ Robin McKie, "Tigers, elephants and pangolins suffer as global wildlife trafficking soars" the guardian, December 8, 2019, <https://www.theguardian.com/environment/2019/dec/08/wildlife-trafficking-science-technology-come-to-rescue-end-illegal-trade>

¹³¹ See Tanya Watt and Anh Ngoc Cao, "Corruption and Wildlife Trafficking" U4 Issue, May 2015, No 11, https://www.researchgate.net/publication/280831904_Corruption_and_wildlife_trafficking

¹³² Vanda Felbab-Brown, *The Extinction Market*, Oxford University Press (2017), pg 7

¹³³ Angela Tritto, et. al. "China's belt and road: an environmental disaster for Southeast Asia?" South China Morning Post, January 5, 2020, <https://www.scmp.com/week-asia/economics/article/3044579/chinas-belt-and-road-environmental-disaster-southeast-asia>

¹³⁴ Francesca Booker and Dilys Roe, "First line of defence?" IIED, Issue Paper, January 2017, pg 52, <https://pubs.iied.org/pdfs/17591IIED.pdf>

¹³⁵ Francesca Booker and Dilys Roe, "First line of defence?" IIED, Issue Paper, January 2017, pg 8, <https://pubs.iied.org/pdfs/17591IIED.pdf>

¹³⁶ Kim Wall, "Hunting the Hunters" Slate, June 20, 2014, <https://slate.com/news-and-politics/2014/06/pardhis-help-hunt-indias-tiger-poachers-these-poor-indian-outcasts-may-save-the-countrys->

prejudice against indigenous groups have denied them appropriate access to justice and participation in the processes assigned to them under law.¹³⁷ Eliminating the stigma is consistent with India's obligations under the Convention on the Elimination of Racial Discrimination and the articles found in UNDRIP.

Had someone been paying attention, the international community and Laos could have saved the tigers in Laos who are now functionally extinct. Many focus on poaching as the main culprit of this sub-species decline.¹³⁸ However, the Laotian government appears not to have taken conservation efforts seriously and there appears to have been no "public ownership" of the species.¹³⁹

No matter how India resolves the tangled legal web regarding tribals and tigers, Britain's role in India's environmental history should not be forgotten or ignored. "In the South Asian context, therefore, environmental history needs to broaden its reach so that it may further advance our understanding of the way in which some social-historical inequalities in this region have been generated."¹⁴⁰ England can make a strong effort to assist India in bringing back Indian tiger populations. Two ideal measures would be earmarking aid (already being provided to India by the UK) which assists tribal communities to sustain their cultural heritage and ways of life in addition to helping build appropriate corridors for tigers to roam free as they once did, for thousands of years.

Conclusion

Injecting the environmental history into the context of wildlife preservation is an important and critical exercise in understanding what truly has gone wrong for the tigers in India. In context the British Empire depleted India of a significant amount of its environmental resources, criminalized the lifestyle of tribal peoples, and decimated the tiger populations. India, while it has progressed in protecting the world's largest remaining tiger population, has kept the chains of colonization on the tribal people, specifically those who have a close relationship with the forest areas where tigers reside.

India will need to revisit and change its entire framework of wildlife and land policies to marry them appropriately to national legislation and international legal principles. One critical element to a successful policy will be incorporating the voices of tribal peoples. In addition, re-evaluating the role that Adivasis play in the protection of the environment and

[rare-wildlife.html](#). See also Aravindha Raj R, "Denotified Tribes and Their Rights" Counter Currents, August 2, 2019, <https://countercurrents.org/2019/08/denotified-tribes-and-their-rights>

¹³⁷ Asavari Sharma, "Why India's Forest Rights Act is discriminatory against non-tribals" The Wire, July 2, 2018, https://www.business-standard.com/article/economy-policy/why-india-s-forest-rights-act-is-discriminatory-against-non-tribals-118070200116_1.html

¹³⁸ Rachel Nuwer, "Study Reveals Loss of Laos's Final Tigers" Scientific American, January 2020, <https://www.scientificamerican.com/article/study-reveals-loss-of-laos-final-tigers/>

¹³⁹ Jeremy Hance, "How Laos lost its tigers" Mongabay, October 28, 2019, <https://news.mongabay.com/2019/10/how-laos-lost-its-tigers/>

¹⁴⁰ Vandana Swami, Environmental History and British Colonialism in India: A Prime Political Agenda, The New Centennial Review, Vol. 3, No. 3, Coloniality's Persistence (fall 2003), pp. 113-130, 128, <https://www.jstor.org/stable/41949868>

wildlife will be critical in addressing the biggest threat that exists to tigers in India – poaching.

Tribal peoples can contribute (as they once did) to protecting this important cultural icon and be comfortable in knowing that they are also protecting their own homes. The tiger species in India is holding on to its existence – literally – with its dear life. If the global community, and India, in particular is truly committed to saving the species, it is time to shed the old and usher in fresh attitudes about the heroic role that Adivasis can have in saving the Indian tigers.