

Indian Forest Act 1927

The Indian Forest Act is an act to consolidate the law relating to forests, the transit of forest- produce and the duty leviable on timber and other forest-produce. Whereas it is expedient to consolidate the law relating to forests, the transit of forest produce and the duty leviable on timber and other forest-produce. The Indian forest Act of 1878 and other related acts prior to 1927 were consolidated to make this new legislation. It also defines the procedure to be followed for declaring an area to be a Reserved Forest, a Protected Forest or a Village Forest. It defines forest offences, acts prohibited inside a Reserved Forest, and penalties leviable on violation of the provisions of the Act.

As per the act 3 categories of forest were made. They are Reserved forest, Village forest and Protected forest.

1. RESERVED FOREST

A reserved forest is a specific term for designating forests and other natural areas, which enjoy judicial and / or constitutional protection under the legal systems of many countries. This forest have full degree of protection, all activities are prohibited unless permitted.

The notification of Reserve forest is made by State Government following below mentioned process:

- (1) The State Government shall issue a notification in the Official Gazette declaring that it has been decided to constitute such land a reserved forest specifying, the situation and limits of such land; and
- (2) The State Government will appoint an officer called "the Forest Settlement Officer" to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits or in or over any forest- produce. The act bars accrual of forest-rights as no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of the Government.

The process of reserve forest declaration followed by the forest settlement office-

- (1) The Forest Settlement Officer will publish a vernacular proclamation in the neighbourhood area specifying:
 - The limits of the proposed forest
 - The consequences of such a reservation of forest area
 - Fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 to approach the officer.
- (2) The powers of Forest Settlement Officers for purpose of inquiry:
 - (a) Power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and
 - (b) The powers of a Civil Court in the trial of suits.
- (c) If the claims mentioned in section 6 are not claimed within the mentioned time period or the officer does not find the claim genuine as per sec.7 then the right to claim is considered extinguished or the claims of people effected may be accepted or not. Similarly specified powers like right of way, right of pasture, right to forest produce and right to water resources may be given to people staying there.
- (d) Treatment of claims relating to practice of shifting cultivation: the forest officer will record the claim and along with his opinion whether the practice should be continued, a report will be submitted to State Government and the decision will be taken by the Government.

Acts prohibited in reserve forests:

- (a) Prohibition of any fresh clearing by any person as per section 5
- (b) Setting fire to a reserved forest

- (c) Keeping or carrying any fire except at such seasons as the Forest-officer may notify in this behalf,
- (d) Trespassing or pasturing cattle, or permits cattle to trespass;
- (e) Causing any damage by negligence in felling any tree or cutting or dragging any timber;
- (f) People are prohibited to fell, girdle, lop, or bum any tree or strips off the bark or damages, the same;
- (g) Activities like quarries stone, bums lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce are prohibited
- (h) Clearing or breaking up any land for cultivation or any other purpose;

2. VILLAGE FOREST

Formation process of village-forests:

- (a) The State Government may assign to any village- community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests.
- (b) The State Government may make rules for regulating the management of village forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce or pasture, and their duties for the protection and improvement of such forest.
- (c) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests.

3. PROTECTED FOREST

- (a) The State Government may, by notification in the Official Gazette, declare the provisions of this Chapter applicable to any forest-land or waste-land which, is not included in a reserved forest but which is the property of Government.
- (b) The forest-land and waste-lands comprised in any such notification shall be called a "protected forest".

The state government has powers to make notification for reserving trees of protected areas. For that publication of translation of such notification in neighbourhood has to be made. After the trees are declared forest the state Government has further power to make rules for protected forest. The rules are related to –

- (a) The cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce, from protected forest.
- (b) Granting license to the inhabitants of towns and villages in the vicinity of protected forest to take trees, timber and forest produces.
- (c) Granting licenses to persons felling or removing trees and timber and other forest produce from such forest for purpose of trade and the production.
- (d) The payments for above mentioned activities in (b) and (c)
- (e) The cutting of grass and pasturing of cattle in such forest
- (f) Hunting, shooting, fishing, poisoning water and setting traps or snares in such forests and the killing or catching of elephants in such forest area.

The Penalties for acts in contravention of notification under section 30 or of rules under section 32 of act : infringement of these rules is punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Control over forests and lands not being the property of Government

The Government can as per this act have control over forests and lands not being the property of Government as per article 35 of act. Protection of forests for special purposes:

(1) The State Government by notification in the Official Gazette, regulate or prohibit in any forest or waste-land the following activities-

- (a) The breaking up or clearing of land for cultivation;
- (b) The pasturing of cattle
- (c) The firing or clearing of the vegetation

When such regulation or prohibition appears necessary for any of the following purposes:

- (i) for protection against storms, winds, rolling stones, floods and avalanches
- (ii) for the preservation of the soil on the ridges ,slopes & in the valleys of hilly tracts
- (iii) for the maintenance of a water-supply in springs, rivers and tanks
- (iv) for the protection of roads, bridges, railways and other lines of communication

(2) The State Government may, for any such purpose, construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit.

Duty on Timber and other forest produces

As per article 39 of chapter VI of the act the Central Government has authority to impose duty on timber and other forest produces. Similarly central government has power to have control of transit in timber and other forest produces. Such power are:

- (1) The control of all rivers and their banks as regards the floating of timber and the control of all timber and other forest-produce in transit by land or water
- (2) Prescribe the routes by which alone timber or other forest-produce may be imported, exported or moved.
- (3) Prohibit the import or export or moving of such timber or other produce without a pass from an officer duly authorized

The Penalty for breach of rules made under section 41 (limit not to apply to purchase-money royalty):

- (a) The State Government may by such rules prescribe as penalties for the contravention there of imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.
- (b) Such rules may provide that penalties which are double of those mentioned in subsection (1) may be inflicted in cases where the offence is committed after sunset and before sunrise

Interestingly the Government and Forest Officers are not liable for damage to forest-produce at depot. All persons bound to aid in case of accidents at depot.

Collection of drift and stranded Timber

As per article 45 of act certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly

- a- Notice to claimants of drift timber
- b- Procedure on claim preferred to such timber
- c- Disposal of unclaimed timber

Government and its officials not liable for damage to such timber.

The Penalties and Procedures are mentioned in section 52 of the act.

Seizure of property liable to confiscation:

1) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account which the seizure has been made.

Power to release property seized under section 54

Subsection 54 of act says upon the receipt of any such report, the Magistrate shall, with all convenient dispatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law. Forest-produce, tools, etc., when liable to confiscation

Subsection 56 says Disposal on conclusion of trial for forest-offence, of produce in respect of which it was committed: When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall be taken charge of by a Forest-officer, and, in any other case, may be disposed of in such manner as the Court may direct

The subsection 63 of act prescribes the penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks

(a) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of Government or of some person, or that it may lawfully be cut or removed some person; or

(b) alters, defaces or obliterates any such mark placed on a tree or on timber by under the authority of a Forest-officer; or

(c) alters, moves, destroys or defaces any boundary-mark of any forest or waste land to which the provisions of this Act are applied, shall be punishable with imprisonment for a term which may extend to two years, or fine, or with both.

Chapter X

Cattle Trespass

Subsection 70 of the acts says Cattle-Trespass Act, 1871, to apply: Cattle trespassing in a reserved forest any portion of a protected forest which has been lawfully closed to grazing shall be deem to be cattle doing damages to a public plantation, and may be seized and impounded as such by Forest-officer or Police-officer.

Power to alter fines fixed under that Act.-The State Government may, notification in the Official Gazette, direct that, in lieu of the fines fixed under section I the Cattle- trespass Act, 1871 (1 of 1871), there shall be levied for each head of cattle impounded under section 70 of this Act such fines as it thinks fit.

Chapter XI

Forest Officers

State Government may invest Forest-officers with certain powers – (1) The State Government may invest any Forest-officer with all or of the following powers that is to say:-

(a) power to enter upon any land and to survey, demarcate and make a map of the same

(b) the powers of a Civil Court to compel the attendance of witnesses and production of documents and material objects;

(c) power to issue a search-warrant under the Code of Criminal Procedure, 1898 (5 of 1898); and

(d) power to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence.

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in subsequent trial before a Magistrate, provided that it has been taken in the presence of accused person.

Chapter XIII

Miscellaneous

The act prescribes few more important provisions which are put under miscellaneous category in the Act.

(a) As per section 79 the persons bound to assist Forest-officers and Police-officers.

(b) As per section 80 the management of forests the joint property of the Government and other persons

(c) As per section 81 the failure to perform service for which a share in produce of Government forest is employed

(d) As per section 84 the land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894

Demerits of the Act

The act was one of the most draconian act the British government has formulated. It deprived the forest dwellers from their basic rights.

- Under the IFA, areas were often declared to be "government forests" without recording who lived in these areas, what land they were using, what uses they made of the forest and so on.
- It had nothing to do with conservation. It was created to serve the British need for timber. It sought to override customary rights and forest management systems by declaring forests state property and exploiting their timber.
- The law says that, at the time a "forest" is declared, a single official (the Forest Settlement Officer) is to enquire into and "settle" the land and forest rights people had in that area. Thus, the law gives immense power to the Forest Settlement officers.

Indian Forest Policy

What do we mean when we say forest?

A forest is a highly complex, constantly changing environment made up of a variety of living things like wildlife, trees, shrubs, wildflowers, ferns, mosses, lichens, fungi and microscopic soil organisms and non-living things like water, nutrients, rocks, sunlight and air. Trees are the biggest part of this complex community.

The forest is a complex ecosystem consisting mainly of trees that buffer the earth and support a myriad of life forms. The trees help create a special environment which, in turn, affects the kinds of animals and plants that can exist in the forest. Trees are an important component of the environment. They clean the air, cool it on hot days, conserve heat at night, and act as excellent sound absorbers.

Features of Indian Forests

Large Variety of Area- Due to different varieties of soil, climate and vast geographical area, there are some salient features of forests found in India.

Low Forest Area- In India, about 22% area is under forests. According to modern experts, in hot countries like India, 1/3 portion of the total area should be under forests. But the area under forests in our country is very low in comparison to other countries of the world.

Unequal Distribution- The distribution of forests is uneven. On the one side, in Himachal Pradesh, Kerala, Assam and M.P., about 33% area is under forests. The more populated areas like Punjab has only 5% forest area.

Low Per Acre Productivity- The per acre productivity of forest is low. It is 1/10 of France, 1/21 of Japan and 1/6 of USA.

Low Per Capita Forest Area- The per capita forest area is also very low due to rapid growth of population. The per capita forest area in India is 0.2 hectare, which is very low. This is important because forest plays important role in providing healthy environment to live.

Unproductive- India's 75% forests are productive and 25% of forests remain unproductive. It is due to lack of transportation and communication facilities.

Control of Forests- in India, 95% forests are controlled by Government, 3% by Village Panchayats and 2% by private individuals.

National Forest Policy

India is one of the few countries which has a Forest Policy since 1894. The policy was revised in 1952 and again in 1988. The basic focus of revised forest policy is to ensure protection, conservation and development of forest. Its aims at followings-

- Maintenance of "environmental stability" through preservation and restoration of ecological balance
- Conservation of natural heritage
- Checking soil erosion and denudation in catchment areas of rivers, lakes and reservoirs
- Checking extension of sand dunes in desert areas of Rajasthan and along coastal tracts
- Substantially increasing forest/tree cover through massive afforestation and social forestry programmes
- Increasing productivity of forests to meet the national needs
- Encouraging efficient utilization of forest produce and optimum substitution of wood; and
- Taking steps to create massive people's movement with involvement of women to achieve the objectives and minimize pressure on existing forests

1.Forest Policy 1952

Since 1947, government has been quite alive to the necessity of developing forestry in the country. In 1950, Van Mahotsava was inaugurated. Likewise to evolve an all India forest policy, a Central Board of Forestry was set up. In 1952, the Government of India announces its National Forest policy. According to this policy, it was decided to raise steadily the area under forest to 100 million hectares. It was suggested to provide green cover over 2/3 of the land area in the hills and mountains. To achieve this goal, it was necessary to reduce the long range development of forest resources and meet the growing demand for timber and firewood.

Features of Forest Policy 1952

- **Classification of Forests-** Forest Policy 1952 has proposed the classification of forests on functional basis into 3 categories- Protected forests (less strictly controlled), National forests and Unclassed forests comprising of village forest or land classed as cultivable land.
- **Balanced Land use Pattern-** Emphasized on evolving balanced and complementary land use pattern under which each category of land is to be used according to its land use capacity so that it may produce more and deteriorate less.
- **Establishment of Tree Lands-** It emphasized on the establishment of tree lands so that physical and climatic conditions may be improved which in turn promote the general wellbeing of the inhabitants of the country.
- **Indiscriminate Extension of Arable Land-** It advocated that indiscriminate extension of land should be discouraged through deforestation. It is because it not only deprives the local population of wood, grass, etc. but side by side deprives the land of its natural defence.

- Principle of Progressive Yield- It laid down that forests should be maintained by the principle of progressively increasing the highest sustained yield in order to meet the requirements of defence, communication and industry.
- Protection of Wild Life- The forest policy also evoked on the need for affording protection of wildlife by its proper management for scientific study and for recreational purposes.
- Awakening People's Interest- The forest policy stressed that it would be the duty of the forester to awaken the interest of the people in the development, extension and establishment of tree law wherever possible and to make them tree minded.

2. Forest Policy 1988

Replacing old forest policy of 1952, GOI announced new forest policy in December 1988. According to the Forest Policy Resolution of 1988, forest cover of country should not be less than 33% of the total geographical area. Main points of forest policy of 1988 are protection, conservation and development of forests.

Features of Forest Policy 1988

- Role of Tribals and Forests- The new forest policy aimed at recognizing the natural relationship between the tribal people and forests. It seeks to ensure the communities living in and around forest area should be in a position to get their domestic requirements of fuel wood, fodder, etc.
- Target for Green Cover- The forest policy of 1998 dictates that green cover should be extended to more than two-third of the land area of the million hectares and the total area should be raised to 100 million hectares.
- Discouraging Forest Based Industries- No forest based enterprises would be permitted to establish in future unless the projects have been cleared after a thorough assessment of the availability of raw materials from the forests.
- Withdrawing the System of Private Forest Contract- The forest policy states to cancel totally the system of forest contractors working in the forests. This policy also stresses upon the need to distribute the minor forest products through state-run depots.
- Restriction on Diversion of Forests Land- The policy suggests that restrictions should be imposed on the diversion of forest land and due application of forest land for non-forest uses.

Indian Forest Conservation Act 1982

Historical background

There have been several policies and acts even before independence to preserve the forest from deforestation. The Forest Conservation Act, 1980 was passed by the Indian Parliament which was further amended in 1988. It extends to whole of India. The act came into effect on 25 October 1980.

Objectives

The Forest Conservation Act of 1980 was acted to control further deforestation.

The act has 5 sections, Section 1 explain the short title, extent and date of commencement. Section 2 restricts state government on reservation of forests or use of forest land for non-forest purpose. However, state government may de-reserve a forest, partly or fully with the permission of central Government.

Section 3 of the act prescribes constitution of advisory committee. The central government may constitute a committee of such numbers of persons as it may deem fit to advise the state government with regards to;

- The grant of approval for the purpose which is prohibited in section of this act or

- Any other matter connected with conservation of forest which may be referred to it by the Central Government.

Section 3A deals with penalty for contravention of the provisions of the act. Anyone who violates the provisions of the act shall be punishable with simple imprisonment for a period which may extend to fifteen days. Section 3B says in case of Government violates the head of the department will be held guilty.

Section 4 deals with powers to make rules by the central government. Section 5 repeals the forest conservation ordinance of 1980.

Amendments to the Act

In 1992, amendments were made to allow non-forest activities in forests, without cutting trees or limited cutting with prior approval of Central Government. These activities are setting of transmission lines, seismic surveys, exploration, drilling and hydroelectric projects. The last activity involves large scale destruction of forest, for which prior approval of the Centre is necessary

WILDLIFE PROTECTION ACT, 1972

Introduction

This act was passed to protect animals, birds, plants. It encompasses not only amphibians and mammals but their young ones too and not only birds and reptiles but also their eggs. It restricts capturing, hunting, poaching, killing, poisoning or trapping of wild animal. It is also against taxidermy which is the preservation of whole dead wild animal or a part of its body as a trophy such as rugs, skins, antler, horns, feathers, eggs, teeth, shells and nails(except vermin). The act has six schedules in which different animal species have been grouped and different provisions for penalty and regulation applies. There are strict penal provisions for hunting and poaching of Schedule I and Schedule II animals and Schedule VI imposes restriction on cultivation and planting of some plants. Vermin refers to the animals specified in Schedule V, which enlists animals which can be hunted. Hunting rights of Scheduled Tribes of some areas like Andaman and Nicobar Islands are also restored in the act.

AIMS

- **Prohibition of hunting in the forest**
- **Protection of wildlife habitats-** Projects such as Project Tiger in 1972 looked over by National Tiger Conservation Authority, Project Elephant in 1992, Crocodile Conservation Project, UNDP Project for sea turtles, not only helped in increase the dwindling number of targeted animals but also preserving its ecosystem in its natural way.

Establishment of protected areas-

- **National Parks-** It provides protection to the entire set of the ecosystem, i.e. flora, fauna, landscape, etc. of that region, animals can be introduced for conservation process. They have fixed boundaries, are highly restricted, require prior permission before entry (Safari), research or education. Human commercial activity is not allowed at all. The act expedited the formation of national parks which was only 5 till 1970. Now the total number stands at 104.
- **Wildlife Sanctuaries-** It was to protect the wildlife in their wild and preserving its ecosystem. It is generally boundary-less. It is less restricted, open to public. Human activities are allowed to a certain extent, like collecting of forest produce.
- **Biosphere Reserves-**It aims to preserve the genetic diversity of the wild. Biosphere reserves have three interrelated zones in the form of concentric circles:
 - The **core** area comprises a strictly protected ecosystem that contributes to the conservation of ecosystems, species and genetic variation.
 - The **buffer** zone surrounds the core areas, and is used for activities such as scientific research, monitoring, training and education.

- The **transition** area is the outermost circle allowed for human habitation and economic activities that are ecologically sustainable.

Regulation and control of trade related to wildlife- Wildlife Crime Control Bureau to keep an eye on the illegal trade

Conservation Vs Tribal People - Government of various countries have been trying to evict tribals of their forest land citing them as an impediment to conservation process. Little do they acknowledge that animals have long lived in harmony with the forest dwellers since generations and who have been helpful informers in case of poaching. It's time to realize that there can be another way round other than relocating 8 to 10 crore forest dwellers by giving them a handful of money, they would have survived peacefully with lesser . Firstly, tribal rights have to be acknowledged and respected. Secondly, they have to be treated as the best experts at defending their own land. Thirdly, conservationists must realize it's they, themselves, who are the junior partners here.