

# Indian Forest Act 1927

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# Outline of Presentation

- Early Developments in Forest Law
- IFA 1927- Objects & Reasons
- Chapter I and II

# Early Developments in Forest Law

- Status before 1865
  1. No defined state forests
  2. British regime inherited extensive proprietary rights in forests from rulers
  3. Actual status and extent of property-uncertain
  4. State of affairs-
    - clearing of forests(Agri/Settlements & other uses)
    - Unlimited withdrawals/heavy grazing/Hunting for sport

- Necessity for legislation:
  1. Legalise forest settlements
  2. Settlement of Reservation areas
  3. Assumption of complete control over the forests
  4. Reserving the power(as owner) to do as may deem fit in the state owned forests.

- Law regarding administration of forests in India- Codified 1<sup>st</sup> time in 1865 (IFA VII of 1865 placed in statute book)
- Indian Forest Act 1878
- IFA 1878(Amendment Acts of 1890,1901,1918 and 1919)
- Madras Forest Act 1882

**History of the First Law in India.**—The first forest legislation in India was Act VII of 1865. That Act was framed upon the basis that the Government might make into a "Government Forest" any jungle land it pleased provided that its selection did not abridge or affect any existing rights of individuals or communities. Consequently, if in any instance it was found necessary for forest purposes to acquire any private land or rights, the Government was left to do so by means of the ordinary law for the acquisition of land for public purposes. Act VII of 1865 was almost immediately found to be more or less unsuitable for the purposes in view. Neither the Act was extended to Bombay and Madras. That Act drew no distinction between forests which required to be closely reserved, even at the cost of more or less interference with private rights, and those which merely needed general control to prevent improvident working. It provided no procedure for enquiry into and settling the rights which it so vaguely saved and gave no powers for regulating the exercise of such rights without appropriating them. It obliged the Government either to take entirely or let alone entirely. On control over private forests in the general interest of the community, it was absolutely silent. For duties on timber, even those actually levied, it gave no authority.—*Vide Proceedings in Council in the Gazette of India of 1878, Sup. pp. 437.* The insufficiency of Act VII of 1865 was long apparent. The want of legal powers to control timber in transit, to require it to be covered by a pass, and to levy duty on foreign timber, caused the loss of several lakhs of rupees annually. So also a regular machinery for enquiring into and adjudicating upon private rights claimed in forests and reserves was found equally advantageous to the Government and the people. To give effect to these provisions, a Bill was introduced in 1868 and more than one draft was circulated to various Local Governments. In 1878 the Governor General in Council passed Act VII of 1878. That Act followed in a great measure the Bill for Burma and found place in the Statute Book as the Burma Forest Act (XIX of 1881).

# THE SCHEDULE.

(See section 86.)

## ENACTMENTS REPEALED.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1878	VII	The Indian Forest Act, 1878.	So much as has not already been repealed.
1890	V	The Forest Act, 1890,	Ditto.
1891	XII	The Amending Act, 1891.	So much of Part I of Schedule II as relates to the Indian Forest Act, 1878.
1901	V	The Indian Forest (Amendment) Act, 1901.	So much as has not already been repealed.
1911	XV	The Indian Forest (Amendment) Act, 1911.	Ditto.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Forest Act, 1878 the Forest Act, 1890, and the Indian Forest (Amendment) Act, 1901.
1918	I	The Indian Forest (Amendment) Act, 1918.	The whole.
1920	XXXVIII	The Devolution Act, 1920.	So much of Schedule I, Part I, as relates to the Indian Forest Act, 1878.

# Objects of forest law

1. Protection of certain estates or properties called “forests”, includes protection of timber, forest trees and natural produce generally , in lands outside the forests.



- Need for special law: when Indian penal code is applicable to all tracts of land

### Peculiar nature :

A. Estates placed under forest management are often burdened with rights adverse to larger public interest (Therefore needs to be dealt in a special way)

- Special provisions- required for determining claims for compensating rights(if incompatible with existence of forest, regulation of existing rights and prevent their further extension or accrual)

**B.** Forests contain great variety of produce-(soil,undergrowth,grass, minerals,trees and its parts), large tracts and difficult to protect unlike fields/gardens- best treated by special law

**C.** Owing to natural origin- no mans propert or every mans property, considered ignorantly as unexhaustable resource, hence essential for special law

**D.** Forests liable to accidents (natural causes/carelessness or malice of man)- necessary to prevent these accidents or punish responsible persons

**E.** Special law wanted in certain cases, specially in mountainous districts, to prevent private owners from wasting and clearing their forests

## 2. Protection of forest produce in transit

- Protection to Produce outside forest too in addition to inside forest
- Certain routes and examination at certain points- as theft is easy
- prevent instance of stealing of floating logs

## 3. Special service vested with certain powers:-

- Forest officers –for improving the forests, but to act as police for their protection (Vastness and inaccessibility)
- Arresting powers/obtaining help in case of need
- Enter upon any land to survey,denarcate and making map, powers of civil court
- Powers under Criminal Procedure code for issue of search warrants/hold inquiry into forest offence/record evidence on oath

# IFA 1927-Chapters I and II

- 13 CHAPTERS
- I-PRELIMINARY
- II-OF RESERVED FORESTS

## Chapter -II

- **Section- 4** : Notification by State Govt
- Section 5: Bar of accrual of forest rights
- Section 6 to 19- provisions for procedures for declaration of RF
- **Section 20**: Notification declaring forest reserved

# Section 26

• **Acts prohibited in such forests.**—(1) Any person who—

(a) makes any fresh clearing prohibited by section 5, or

(b) sets fire to a reserved forest, or, in contravention of any rules made by the

1[State Government] in this behalf, kindles any fire, or leaves any fire burning, in

such manner as to endanger such a forest;

1. Subs. by the A.O. 1950, for “Provincial Government”.

## Section 26(1) Contd..

- Clause (a)- even before area notified u/s 4 becomes a RF u/s 20(1).
- An old clearing re-cleared is NOT a fresh clearing
- Has to be contrary to rules made by State Govt in this behalf.
- What if no rules are framed by State Govt and fresh clearing is made? Will it constitute an offence?



- Clause (b)

Whether needs to be done inside RF only?

What if done from outside RF?

Sufficiently near to it to cause the danger?

Whether these will constitute offences if they are contrary to the rules made by State Govt in this behalf if any.

## Section 26(1) Contd...

or who, in a reserved forest—

- (c) kindles, keeps or carries any fire except at such seasons as the Forest-officer may notify in this behalf;
- (d) trespasses or pastures cattle, or permits cattle to trespass;
- (e) causes any damage by negligence in felling any tree or cutting or dragging any timber;

## Section 26(1) Contd..

(f) fells, girdles, lops, taps or burns any tree or strips off the bark or leaves from, or otherwise damages, the same;

(g) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce;

## Section 26(1) contd..

(h) clears or breaks up any land for cultivation or any other purpose;

(i) in contravention of any rules made in this behalf by the **1**[State Government] hunts, shoots, fishes, poisons water or sets traps or snares;

1. Subs. by the A.O. 1950, for "Provincial Government".

## Section 26(1) contd..

or

**(j)** in any area in which the Elephants' Preservation Act, 1879 (6 of 1879), is not in force, kills or catches elephants in contravention of any rules so made;

## Section 26(1) contd..

- shall be 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**, in **addition to such compensation for damage done** to the forest as the **convicting Court may direct** to be paid.

State Amendments	Imprisonment	Fine
Bihar	Min 6 months –may extend to 2 years	Min 1000- 5000 Rs
Gujarat	No Amendment in imprisonment	No Amendment
Haryana	may extend to 1 year	May extend to Rs 1000
H.P	2 Years substituted for 6 months	5000 Rs substituted for 500 Rs
M.P	extend to 1 year	May extend to Rs 15000
Maharashtra	1 Year substituted for 6 months	Substituted- May extend to Rs 5000
Rajasthan	26(1) may extend to 6 months 26(1-A) may extend to 6 months	May extend to Rs 500 May extend to Rs 25000
Uttaranchal	Clause (b),(f),(g),(h)-may extend to 2 years, 2 <sup>nd</sup> & Subsequent same offence conviction -may extend to 2 years Other clauses-may extend to 6 months 2 <sup>nd</sup> & Subsequent same offence conviction -may extend to 6 months	May extend to Rs 5000 May extend to Rs 20000 May extend to Rs 1000 May extend to Rs 2000

State amendments	Imprisonment	Fine
U.P	<ol style="list-style-type: none"> <li>1. Clause (b),(f),(g),(h)-may extend to 2 years,</li> <li>2. 2<sup>nd</sup> &amp; Subsequent same offence conviction -may extend to 2 years</li> <li>3. Other clauses-may extend to 6 months</li> <li>4. 2<sup>nd</sup> &amp; Subsequent same offence conviction -may extend to 6 months</li> </ol>	<ol style="list-style-type: none"> <li>1. May extend to Rs 5000</li> <li>2. May extend to Rs 20000 but which shall not be &lt; 500</li> <li>3. May extend to Rs 1000</li> <li>4. May extend to Rs 2000</li> </ol>
W.B	1 Year substituted for 6 months	May extend to Rs 1000



## Section 26(2)

**(2)** Nothing in this section shall be deemed to prohibit—

**(a)** any act done by permission in writing of the Forest-officer, or under any rule made by the **1**[State Government]; or

**(b)** the exercise of any right continued under clause (c) of sub-section (2) of section 15, or created by grant or contract in writing made by or on behalf of the Government under section 23.

1. Subs. by the A.O. 1950, for "Provincial Government".

## Section 26(3)

(3) Whenever fire is caused wilfully or by gross negligence in a reserved forest, the 1[State Government] may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

## Chapter IX (Penalties and Procedure)

- **Section 52:** 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 in committing any such offence, may be seized by any Forest officer or Police-officer

## Section 52 contd..

(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 of which the seizure has been made:

## Section 52(2) contd..

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.