



# **FACULTY OF JURIDICAL SCIENCES**

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# Lecture-36



## LECTURE 36: History of Forest Conservation Act 1980

### Introduction

Forests are a major natural resource and are also recognised as a colourful expression of nature. They are also recognised as guardians and protectors of the wildlife of the country. Forests are valued not only for various kinds of flora and fauna but also for minerals, watersheds, cradles of rivers, check on desertification, as an important recreational resource and for their scenic beauty. Therefore, management of forests is an essential aspect of the protection of the environment. It also becomes more important as the trees are known as pools or banks of carbon dioxide. Cutting of trees releases carbon dioxide into the atmosphere which has largely contributed to the greenhouse effect or global warming. This global warming, in turn, has resulted in the melting of ice-caps and rise in the sea level; a change in a climate patterns has also been experienced all over the world.

During the last century, forests have been cut at rates unequalled in the world and they are disappearing at an alarming rate. In India, it has been claimed that we have got vegetation cover over 19 per cent of the total land area as against the accepted ideal of 33 per cent in India and over 40 per cent internationally. Thus, vegetation cover is much less than required.

### Historical perspective

The Rigveda and the other Shrutis make it abundantly clear that often people saw the images of God in nature (trees, plants, animals, etc.) and treated them as divine objects with great devotion and love. Some trees were declared as sacred (e.g., peepal, banana, tulsi, amla, etc.) and this, in turn, automatically worked to protect the forests from the onslaught of mankind.

Mastya Purana: one pond is equal to 10 wells, one son is equal to 10 ponds and one tree is equal to 10 sons. Manusmriti declares the cutting of green trees an “offence”. Kautilya has provided in his Arthashastra that it is the duty of the king to guard, upkeep and plant forests for the kingdom. He also prescribes that it is the duty of the king to plant forests which grant safety to animate and inanimate objects. Emperor Ashoka is also known for his work to protect forests and for planting trees along public roads. The edicts issued by him include “forests must not be burned”, and “trees shall be planted on both the sides of the roads”.

## **British Period**

During British period forests were treated as a source of revenue for the government and not as a natural resource. During this time most of the forests were destroyed in the name of agriculture and the need for more land for cultivation.

The first Forest Act was enacted in 1865 and the Forest Department was established. The main purpose of this Act was to facilitate the acquisition of the Indian forest areas to supply timber for railways and to establish the claim of the State on the forest land. But the Act did not have provisions to protect the existing rights of the people living in the forests. Basically, this Act was meant to regulate forest exploitation, and the management and preservation of forest resources.

Indian Forest Act, 1878 classified forests into three types.

- The first category was reserved forests meant for- exploitation of timber for commercial purposes. Customary rights were not recognised in reserved forests.
- The second category was protected forests. The rights and privileges of forest communities were recorded but not settled.
- The third category was village forests which implied that any revenue from village forests was meant for the village communities managing such forests.

## **Forest Act, 1927**

To make forest laws more effective and to improve the Forest Act, 1875, a new comprehensive Forest Act was passed in 1927 which repealed all the previous laws. The Act consists of 86 sections divided into 13 chapters. The main objects of the Act are to consolidate the laws relating to forests) regulation of and the transit of forest produce; and to levy duty on timber and other forest produce. The term “forest” has not been defined in the Act.

## **Forest (Conservation) Act, 1980**

- Restriction on the use of forest land for non-forest purposes and
- Control of de-reservation of forests that have been reserved under the Indian Forest Act, 1927.

FCA shifts the power to control forests from state governments to the Central Government. It

makes prior approval of the Central Government mandatory for the use of forest areas for non-forest purpose. The expression 'non-forest purpose' means breaking up or clearing of forest for cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants. However, clearing of forest for reforestation or any work for conservation and management of forest and wildlife does not amount to 'non-forest purpose'. FCA makes prior approval of the Central Government is mandatory for state governments to de-notify a reserved forest.

### **Banwasi Seva Ashram v. State of UP**

Raised an important question relating to the right of the state to notify an area as reserved forest and its effect on Adivasis already living there. State pleaded that the forest land had been acquired to set up thermal power station and provide cheaper electricity to people. The court declared that the land which had been acquired already would not be part of writ petition. FCA lays down the procedure to be followed in the implementation of the law. The MoEF is required to