



# **Introduction to**

## **INDIAN FOREST ACT, 1927 INDIAN FOREST(Conservation) ACT, 1980 & WILDLIFE PROTECTION ACT, 1972,**

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# Forest

- The word forest is derived from a Latin word “Foris” means Outside
- Forest are one of the most important natural resources of the earth.
- Approximately 1/3<sup>rd</sup> of the earth's total area is covered by forests



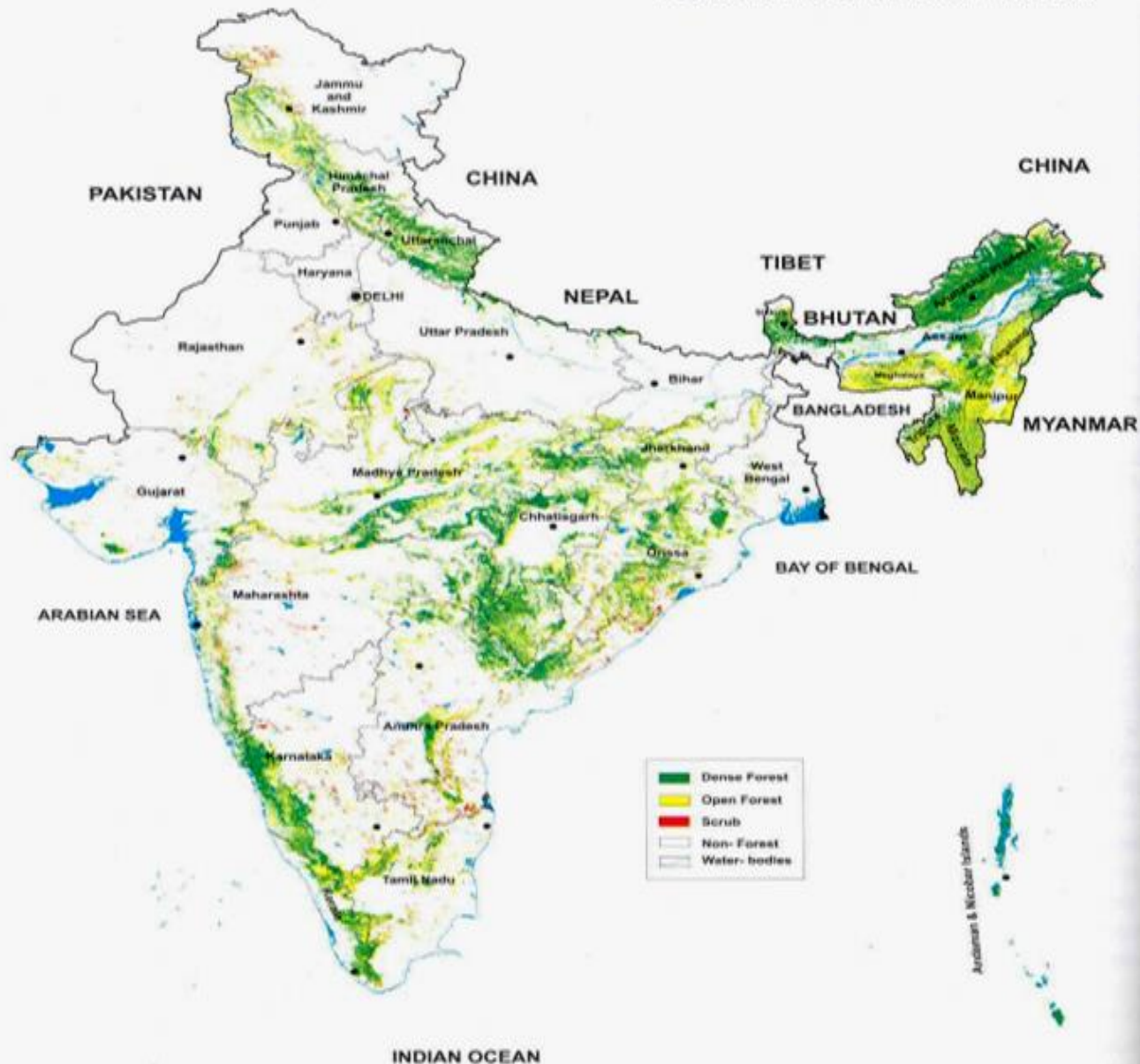
# INDIAN SCENARIO

- In India forest cover Overall, 21.02% of the country's geographical area is now under green cover (**as per 2009\* data**) The total forest cover in India is **6,90,899 km<sup>2</sup>**
- Forest cover in India is defined as all lands, more than one hectare in area with a tree canopy density of more than 10%.

Very Dense Forest	All lands with tree cover of canopy density of 70% and above
Moderately Dense Forest	All lands with tree cover of canopy density between 40% and 70%
Open Forest	All lands with tree cover of canopy density between 10% and 40%.
Scrub	Degraded forest lands with canopy density less than 10 %.
Non-forest	Any area not included in the above classes.



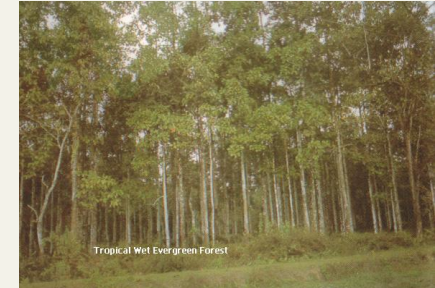
# FOREST COVER OF INDIA



# TYPES OF FORESTS IN INDIA

## MOIST TROPICAL FOREST

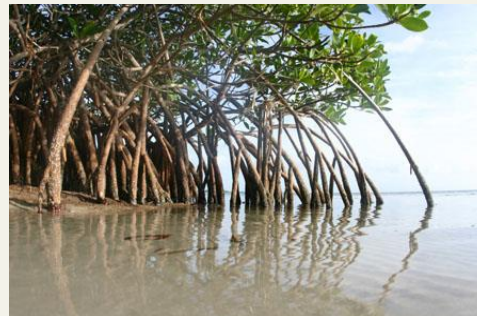
- a) **Tropical wet evergreen:** Western Ghats (Maharashtra, Karnataka, Kerala)
- b) **Tropical semi evergreen:** Lower hills of western Ghats.
- c) **Tropical moist deciduous:** Dehradun, mahableshtar
- d) **Damp Forests:** Sunder bans, Bengal delta, and Andaman.



a)



b)



d)



c)

# Cont....

## DRY TROPICAL FORESTS

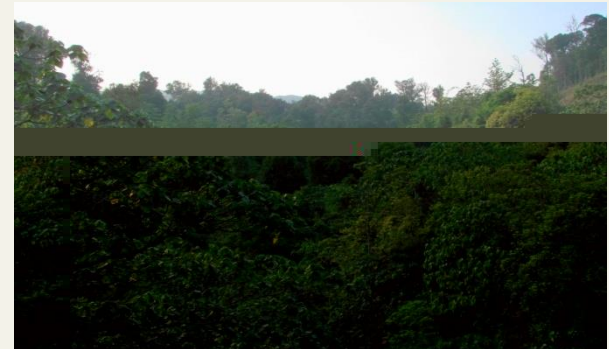
- a) Tropical dry deciduous: Madhya Pradesh, Uttar Pradesh
- b) Tropical thorn forest: Delhi, Punjab, Gujarat
- c) Tropical dry evergreen: Eastern Ghats (Andhra Pradesh, Tamil Nadu)



a)



b)



c)



# MONTANA SUB TROPICAL FORESTS

## CONIFEROUS FORESTS

- a) Subtropical broad: Shillong, Nilgiris
- b) Subtropical pine forest: Arunachal Pradesh, Kashmir
- c) Sub Tropical dry evergreen: Foot Hills of Himalayas.



a)



b)



c)



# MONTANA TEMPERATE FORESTS

- a) Montana Wet temperate: Nilgiri, Palmi Hills
- b) Himalayan wet temperate: Assam, Himachal Pradesh
- c) Himalayan dry temperate: Kashmir





# SUB ALPINE FORESTS

- a) Moist alpine scrub- high Himalayas
- b) Dry alpine scrub: Sikkim



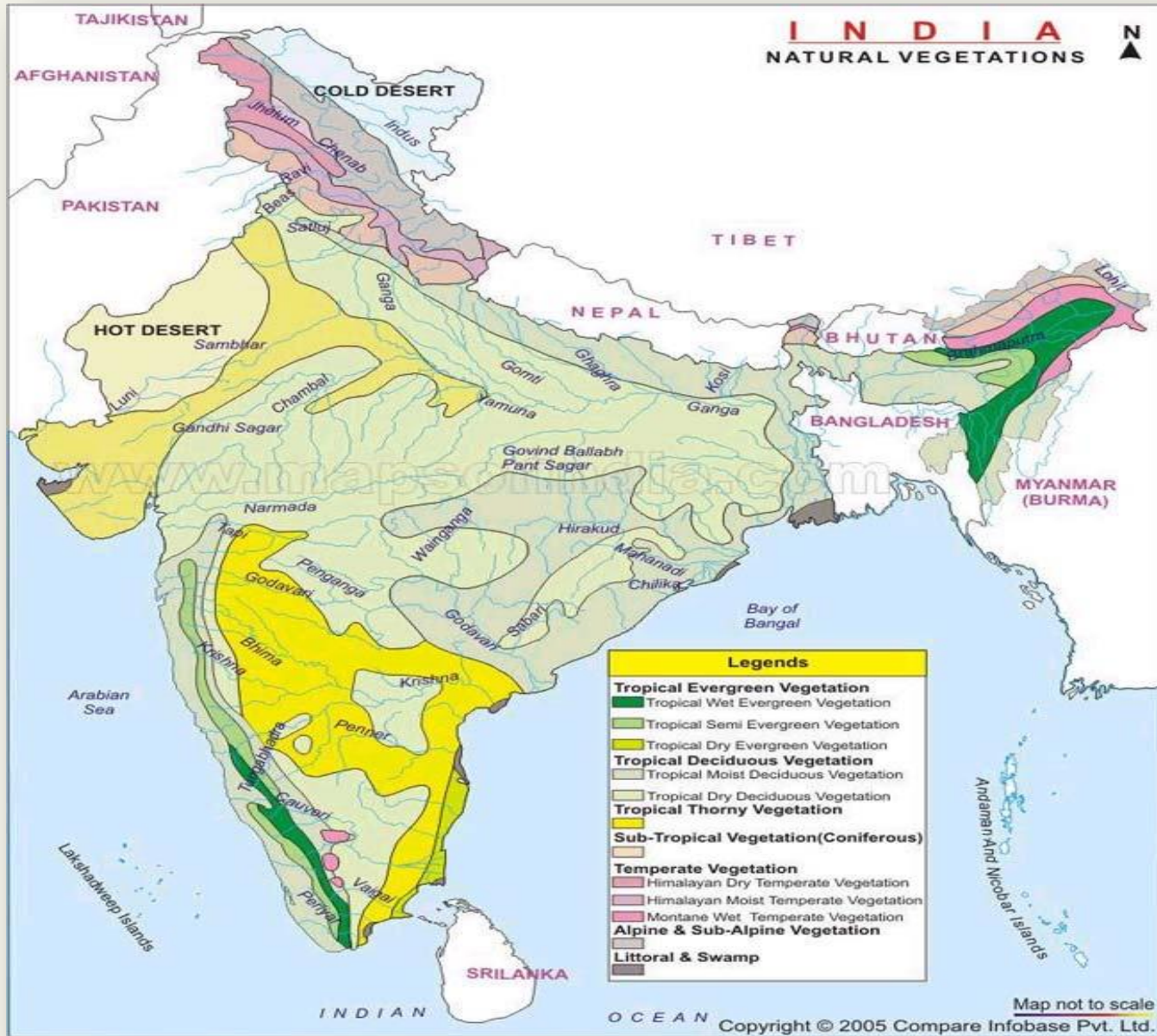


Among the 16 different forest types of the country, the most common is

- ***Tropical dry deciduous (38.7%)***
- ***Tropical moist deciduous (30.9%)***
- ***Tropical thorn (6.9 %)***

These 3 types of tropical deciduous forests accounts for more than 76.5 % of forest area in India. Nearly 96 % of forests are owned by government and, 2.6 % by corporate bodies and rest are in private ownership.

# TYPES OF FORESTS IN INDIA







# INDIAN FOREST ACT, 1927

- The **Indian Forest Act, 1927** was largely based on previous Indian Forest Acts implemented under the British.
- The first and most famous was the Indian Forest Act of 1878.
- The preamble to the Indian Forest Act, 1927 states that the Act seeks to consolidate the law relating to forests, the transit of forest produce and the duty that can be levied on timber and other forest produce.
- 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 what is a forest offence, what are the acts prohibited inside a Reserved Forest, and penalties leviable on violation of the provisions of the Act.



# INDIAN FOREST ACT, 1927

It has **86** Sections and it has been divided into 13 chapters relating to

- i) Preliminary,
- ii) Reserved Forests,
- iii) Village Forests,
- iv) Protected Forests,
- v) the Control Over Forests and Lands not Being the Property of Government,
- vi) the Duty on Timber and Other Forest Produce,
- vii) the Control of Timber and Other Forest Produce in Transit,
- viii) the Collection of the Drift and Stranded Timber,
- ix) Penalties and Procedure,
- x) Cattle-Trespass,
- xi) Forest Officers,
- xii) Subsidiary Rules,
- &
- xiii) Miscellaneous.



# INDIAN FOREST ACT, 1927

- In the Indian Forest Act, 1927, a striking feature is the absence of any definition of forest or forest land.
- The attempt of the Supreme Court to assign a meaning to the term 'forest' as per the dictionary meaning has seen a spate of interventions in the Court due to its wide ambit.
- Forest as per the above definition, may include private, common pasture, or cultivable land.





# INDIAN FOREST ACT, 1927

**Section 2(4)** of this Act provides definitions for the forest-produce and includes:

the following whether found in, or brought from a forest, that is to say

✓ timber, charcoal, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, kuth and myrabolams

and

the following when found in, or brought from, a forest or not, that is to say

✓ trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,

✓ plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

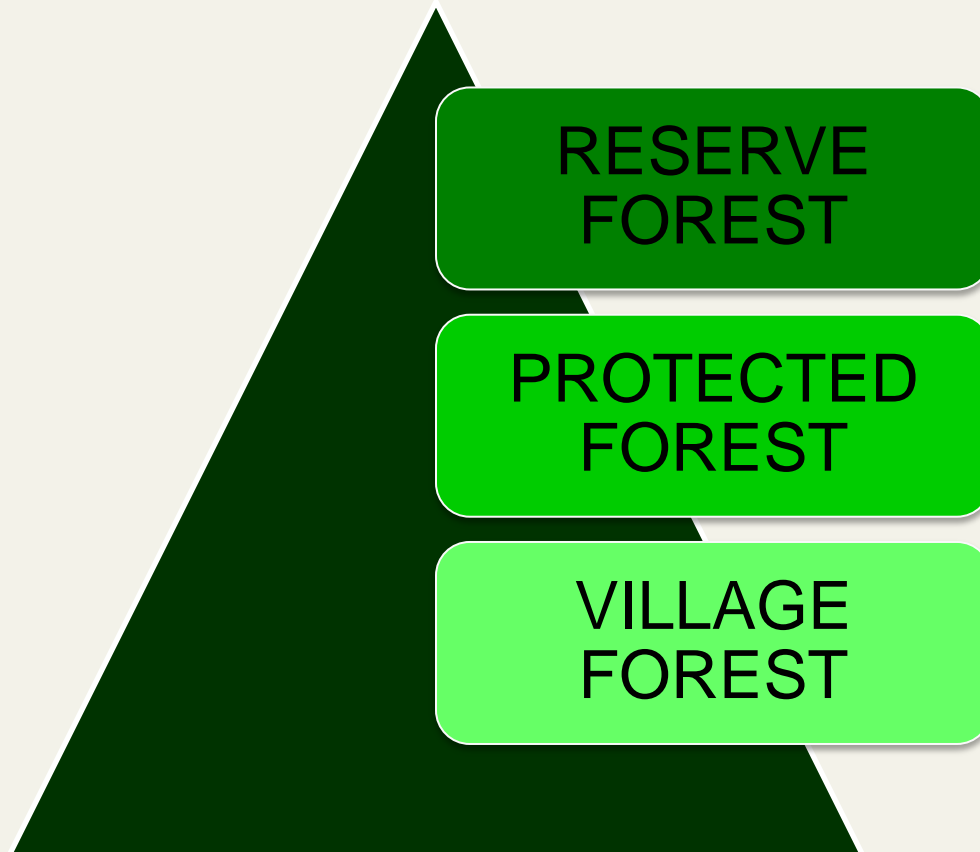
✓ wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

✓ peat, surface soil, rock and minerals (including lime-stone, laterite, mineral oils, and all products of mines or quarries).



# INDIAN FOREST ACT, 1927

**This Act establishes three categories of forests:**





# INDIAN FOREST ACT, 1927

## RESERVE FOREST

- The most restricted category is 'Reserved Forest'.
- These forests may be constituted by the State Government on any forest land or waste land which is the property of the Government or on which the Government has proprietary rights.
- Where the land is not forest land or waste land, as said above, any notification issued by the Government (under Section 20 of the IFA) declaring the land as reserve forest will be without jurisdiction and a Civil Court would be competent to quash such notification.
- On the other hand, where forest land or waste land is the property of the Government, the Forest Settlement Officer shall proceed to determine subordinate rights in the land before a final notification is issued making the area a reserved forest.
- In reserved forests, most uses by local people are prohibited, unless specifically allowed by a Forest Officer in the course of settlement.





# **INDIAN FOREST ACT, 1927**

## **PROTECTED FOREST**

- The State Government is empowered to constitute any land other than reserved forests as protected forests over which the Government has proprietary rights.
- Under 'Protected Forests', the Government retains the power to issue rules regarding the use of such forests, but in the absence of such rules, most practices are allowed.
- Among other powers, the State retains a power to reserve the specific tree species in the protected forests.
- This power has been used to establish State control over trees, whose timber, fruit or other non-wood products have revenue-raising potential.



# INDIAN FOREST ACT, 1927

## VILLAGE FOREST

- A third classification is 'village forests' in which 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'.
- The State Government may also make rules for regulating the management of such forests. Little use has been made of this provision.
- The terms 'village forest' and 'forest village' are interchangeably used - however, they must be distinguished from one another.
- While 'village forest' is a legal category under the Indian Forest Act, 1927, 'forest village' is an administrative category.
- Although the latter is recognised by the Forest Department, the revenue benefits cannot accrue to such villages as they are not technically under the revenue departments.



# **INDIAN FOREST ACT, 1927**

## **PROCEDURE FOR THE SETTLEMENT OF RIGHTS**

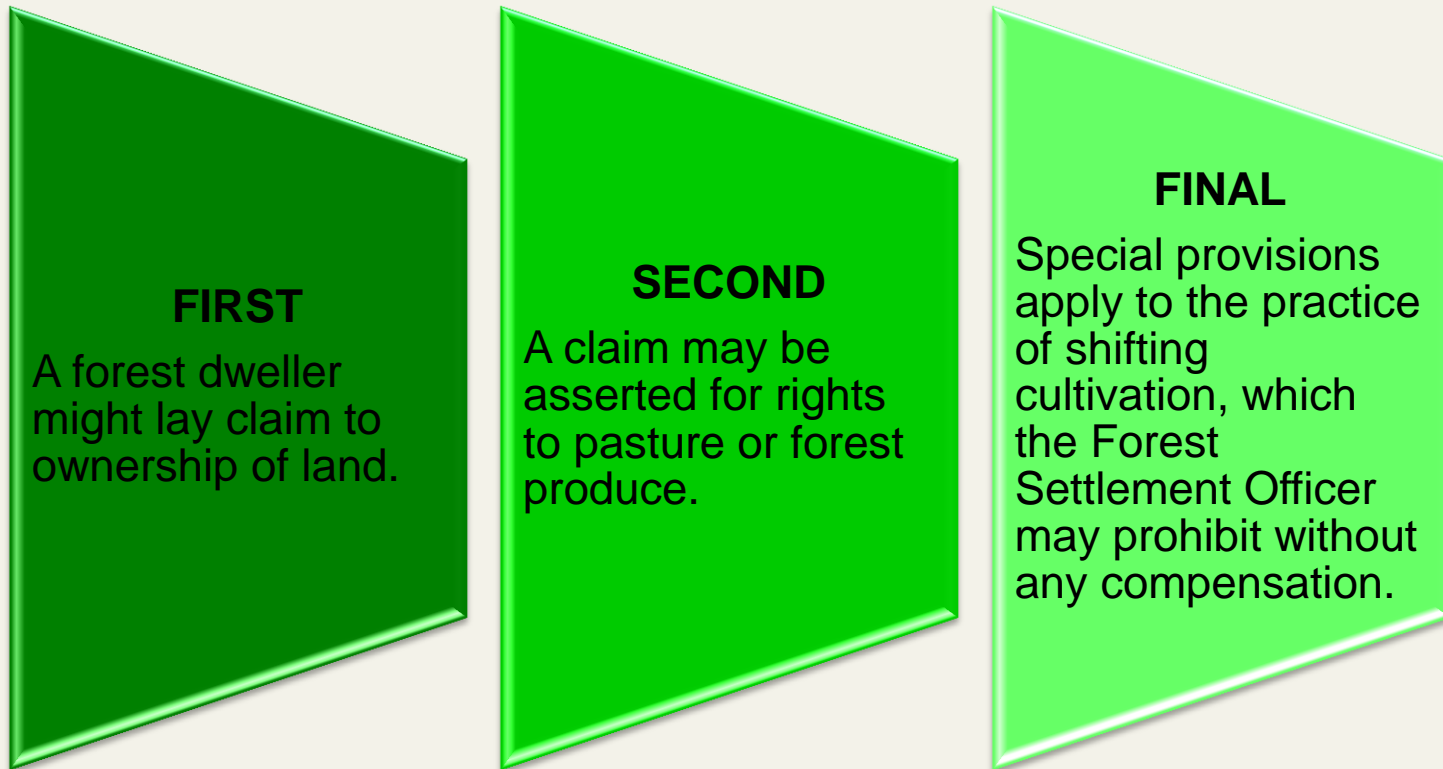
- The Act establishes an elaborate procedure for the settlement of rights when a reserved forest is intended to be constituted.
- The settlement procedures require the Forest Officer called the Forest Settlement Officer (FSO) to consider the claims of the local inhabitants to certain usage rights, but leave ample discretion for him to relocate, revise or discontinue such practices.
- The State is first required to issue a notification declaring its intention to reserve a certain tract of land, and appoint an FSO to inquire into the existence of any alleged rights in favour local inhabitants.
- The inquiry by the FSO should not be confined to merely recording evidence produced by the claimants or ascertainable from the records of the Government.
- The FSO may call for an examination of any person who, he may think, has the knowledge of the facts, including the evidence of any person likely to be acquainted with the same (Section 6).
- No new rights in the notified land may arise after such a notification has been issued, and those claiming any pre-existing right have a period of at least three months to appear and assert such a right, and to make a case for compensation.
- Generally, rights which are not asserted during that period are extinguished, although there are provisions in extraordinary cases for later assertions until the final reservation order is published.





# INDIAN FOREST ACT, 1927

The Indian Forest Act anticipates three types of claims in forests proposed to be reserved.



The **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**, recognizes the rights of forest-dwelling Scheduled Tribes and other traditional forest dwellers over the forest areas inhabited by them and provides a framework for according the same.



# **INDIAN FOREST ACT, 1927**

## **OFFENCES UNDER THE FOREST ACT**

- On account of their peculiarity, differ from those under the Indian Penal Code in the sense that as a result of the former, no one is personally aggrieved or affected by the injury inflicted upon the forests, and the vast expanse of it makes the detection of offences difficult.
- Forest Offence has been defined under Section 2(3) of the Indian Forest Act, 1927, to mean 'an offence punishable under the Indian Forest Act, 1927 or rules made there under.
- Forest offences have been classified into two broad categories. Firstly, there are trivial offences covered under Section 68, where offences may be disposed of by compounding (compromising with money).
- Secondly, there are offences which do not fall under the above category and they entail higher punishment, which includes imprisonment, confiscation of private forest produce, tools, vehicle and cattle, etc., and in addition, the recovery of an amount equal to the damage done to the forest as compensation in case of offences relating to reserve forest (Section 26).
- A third category of forest offences relates to cattle trespass. Such offences are disposed of under the Cattle Trespass Act, 1871.



# INDIAN FOREST ACT, 1927

## OFFENCE– “Forest Case”

### Supreme Court and India's Forests

ARMIN ROSENCRANZ, SHARACHCHANDRA LÉLÉ

The T N Godavarman vs Union of India case in the Supreme Court, also known as the “forest case”, is an example of the judiciary overstepping its constitutional mandate. The court has effectively taken over the day-to-day governance of Indian forests leading to negative social, ecological and administrative effects.

In 1995, T N Godavarman Thirumulpad filed a writ petition with the Supreme Court of India to protect a part of the Nilgiris forest from deforestation by illegal timber felling.<sup>1</sup> The Supreme Court clubbed the Godavarman case with another writ petition with similar issues,<sup>2</sup> and expanded its scope from ceasing illegal operations in particular forests into a reformation of the entire country's forest governance and management. In its first major order in the Godavarman case on December 12, 1996, the court inter alia re-defined the scope of the Forest Conservation Act 1980, suspended tree felling across the entire country, and sought to radically re-orient the licensing and functioning of forest-based industries. Subsequently, more than 2,000 interlocutory applications have been admitted,<sup>3</sup> and several hundred orders have been issued, many with far-reaching implications. But the case is still pending in the Supreme Court. In the process, the court has gone far

[http://atree.org/sites/default/files/pubs/slele/journal-publications/slele\\_14\\_Rosencranz\\_&\\_Lele-EPW\\_Feb\\_2008.pdf](http://atree.org/sites/default/files/pubs/slele/journal-publications/slele_14_Rosencranz_&_Lele-EPW_Feb_2008.pdf)



# INDIAN FOREST(Conservation) ACT, 1980

- ✓The Parliament has enacted the **Forest (Conservation) Act, 1980**, to check further deforestation and conserve forests and to provide for matters connected therewith or ancillary or incidental thereto.
- ✓This Act has five Sections which deal with conservation of forests.
- ✓The Act was enacted with the twin objectives under Section 2 of restricting the use of forest land for non-forest purposes, and preventing the de-reservation of forests that have been reserved under the Indian Forest Act, 1927.
- ✓However, in 1988 the Act was further amended to include two new provisions under Section 2, where it sought to restrict leasing of forest land to private individuals, authority, corporations not owned by the Government, and to prevent clear felling of naturally grown trees.

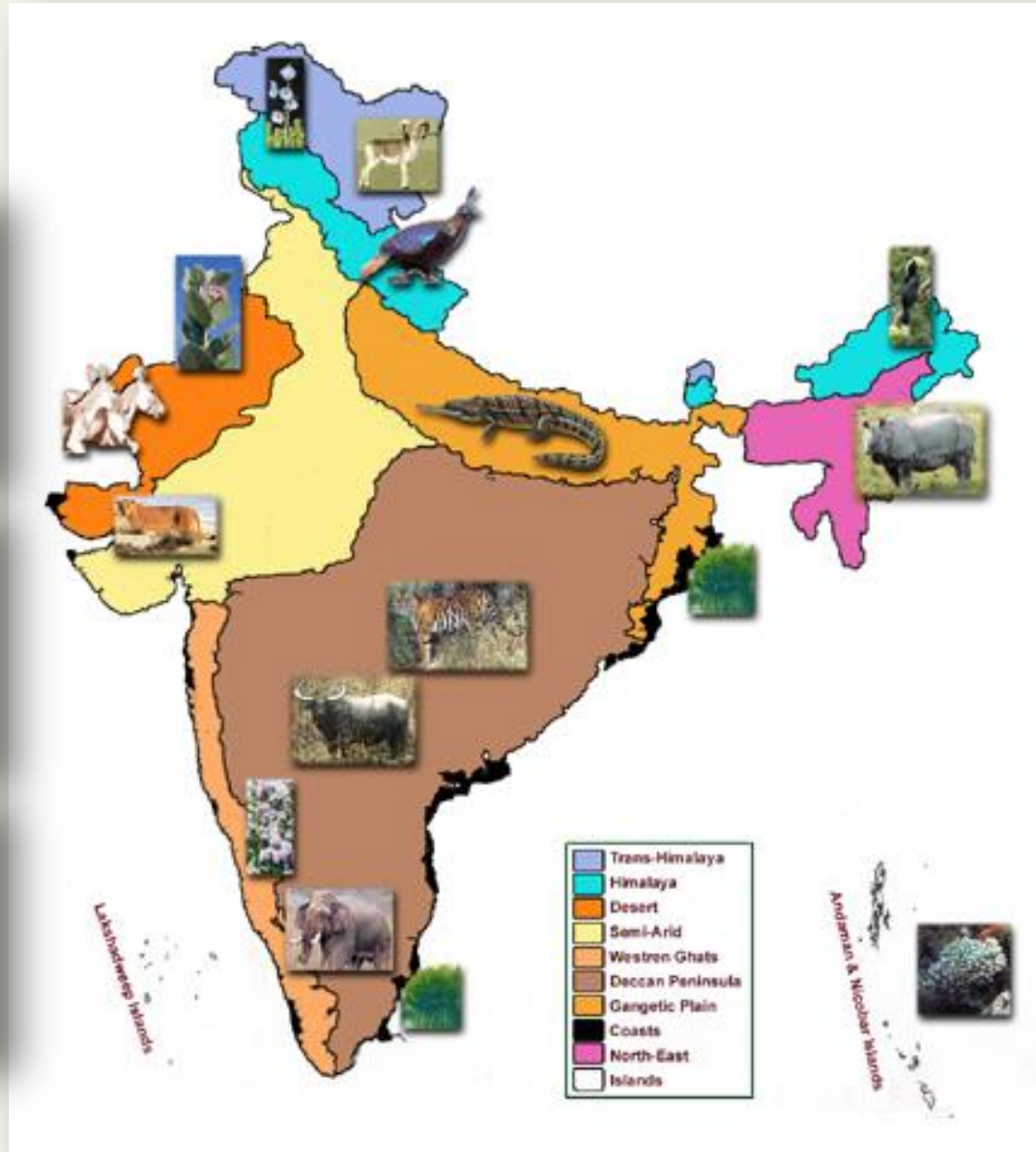


# INDIAN FOREST(Conservation) ACT, 1980

- ✓The Act empowers the Central Government to constitute a committee to advise the Government with a grant of approval under Section 2, as also on any other matter connected with the conservation of forest and referred to it by the Central Government.
- ✓The Act provides for the punishment of imprisonment, extendable to fifteen days for the contravention of the provisions of the Act.
- ✓The Act provides for punishment of offenders from the Government Departments, including Head of the Departments and authorities.
- ✓However, these persons can escape criminal liabilities if they can prove that:
  1. The offence was committed without their knowledge,
  2. They had exercised all due diligence to prevent the committing of such offence.



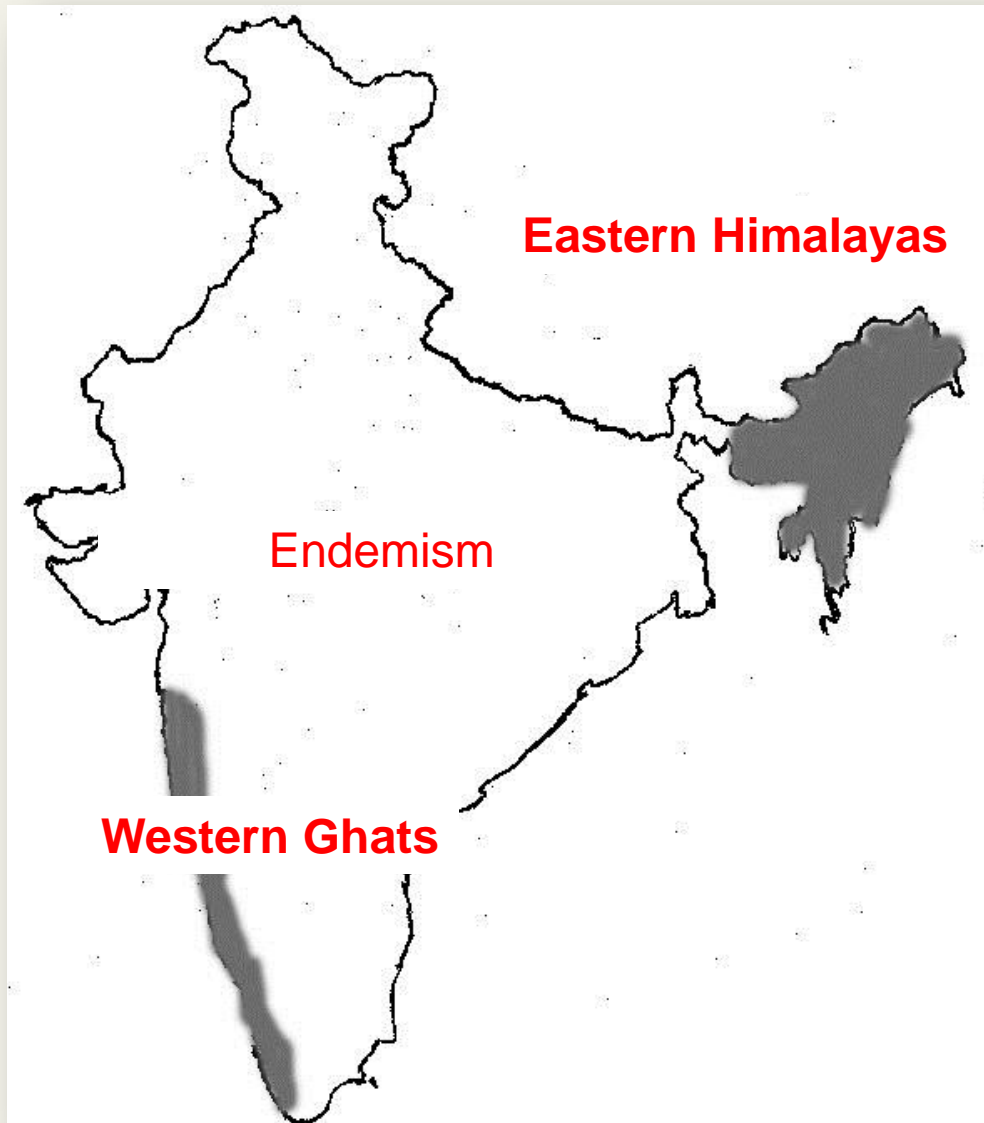
# WILDLIFE IN INDIA





# HOT SPOTS OF INDIA

## 7th Mega Biodiversity Country



Species	Total	Endemic
• Mammals	350	38
• Birds	1226	70
• Reptiles	420	156
• Amphibian	140	110
• Fishes	2000	
• Insects	50,000	
• Plants	45,000	



# HIMALAYAS



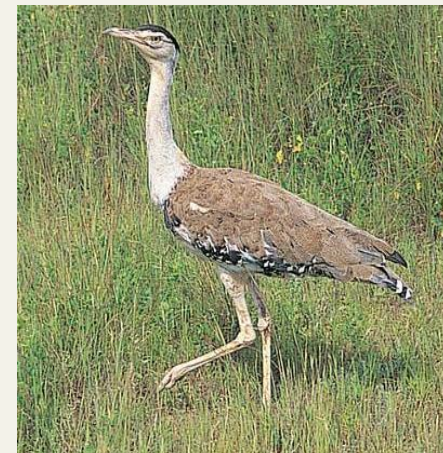


# WESTERN GHATS



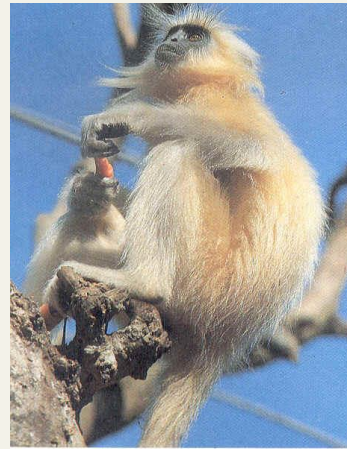
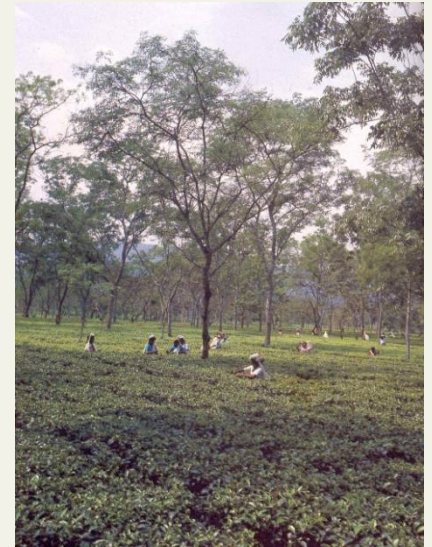


# DESERTS





# NORTH EASTERN INDIA



# COASTAL & MARINE







# WILDLIFE PROTECTION ACT, 1972

➤ The most significant legislation on wildlife protection which is based on the ecosystem approach and a regulatory regime of command and control is the **Wild Life Protection Act, 1972**.

➤ The objective of this enactment was three-fold...

1. To have a uniform legislation on wild life throughout the country
2. To establish a network of protected areas, i. e., national parks and sanctuaries
3. To regulate illicit trade in wild life and its products.



# **WILDLIFE PROTECTION ACT, 1972**

## **History behind WLP Act, 1972**

The earliest codified law can be traced to 3rd Century B.C. when Ashoka, the King of Maghadha, enacted a law in the matter of preservation of wild life and environment.

But, the first codified law in India which heralded the era of laws for the wild life and protection was enacted in the year 1887 by the British and was titled as the Wild Birds Protection Act, 1887 (10 of 1887).

This Act enabled the then Government to frame rules prohibiting the possession or sale of any kinds of specified wild birds, which have been killed or taken during the breeding season.

Again the British Government in the year 1912 passed the Wild Birds and Animals Protection Act, 1912 (8 of 1912) as the Act of 1887 proved to be inadequate for the protection of wild birds and animals.

The Act of 1912 was amended in the year 1935 by the Wild Birds and Animals Protection (Amendment) Act, 1935 (27 of 1935).



# WILDLIFE PROTECTION ACT, 1972

## History behind WLP Act, 1972

- After the Second World War the freedom struggle for India started taking its shape and wild life was relegated to the background.
- But after independence, the Constituent Assembly in the Draft Constitution placed "Protection of Wild Birds and Wild Animals" at entry No.20 in the State List and the State Legislature has been given power to legislate.
- It was not till late 1960's that the concern for the depleting wild finally aroused.
- The first comprehensive legislation relating to protection of wild life was passed by the Parliament and it was assented by the President on **9th September, 1972** and came to be known as The Wild Life (Protection) Act, 1972.





# WILDLIFE PROTECTION ACT, 1972

The Wild Life Protection Act, 1972 has **66** Sections and has been divided into **seven** chapters relating to

- i) Preliminary,
- ii) Authorities to be Appointed or Constituted under the Act,
- iii) Hunting of Wild Animals,
- iiiA) Protection of Specified Plants,
- iv) Sanctuaries, National Parks (Omitted 1991) and Closed Areas,
- ivA) Central Zoo Authority and Recognition of Zoos,
- v) Trade or Commerce in Wild Animals, Animal Articles and Trophies,
- vA) Prohibition of Trade or Commerce in Trophies, Animal Articles, Etc, derived from Certain Animal,
- vi) Prevention and Detection of Offences,
- viA) Forfeiture of Property Derived from Illegal Hunting and Trade,
- vii) Miscellaneous, and Schedules:- I, II, III, IV, V, VI.



# **WILDLIFE PROTECTION ACT, 1972**

## **LIST OF AMENDING ACTS**

- The constitution (Forty-second Amendment) Act, 1976.
- The Wild Life (Protection) (Amendment) Act, 1982 (23 of 1982).
- The Wild Life (Protection) (Amendment) Act, 1986 (28 of 1986)
- The Wild Life (Protection) (Amendment) Act, 1991 (44 of 1991).
- The Wild Life (Protection) (Amendment) Act, 1993 (26 of 1993).
- The Wild Life (Protection) (Amendment) Act, 2002 (16 of 2003)
- The Wild Life (Protection) (Amendment) Act, 2006



# **WILDLIFE PROTECTION ACT, 1972**

## **WHY AN ACT FOR WILDLIFE?**

- ✓ Rapid decline of India's wildlife, one of the richest and most varied became a cause of grave concern.
- ✓ In India wildlife conservation is a major challenge.
- ✓ Wildlife trafficking is a major threat for conservation.
- ✓ It has both local as well as a universal spread.
- ✓ Illegal wildlife trafficking is estimated to be billions of US dollars annually.
- ✓ It is reportedly next only to narcotics and illegal arms trafficking.



# WILDLIFE PROTECTION ACT, 1972

## Preliminary

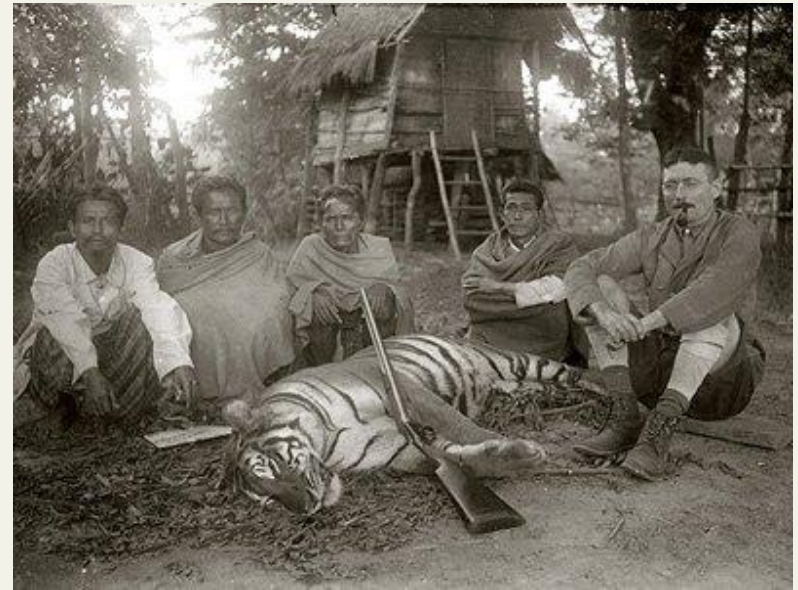
### 2. Definitions:

- (1) Animal includes mammals, birds, reptiles, amphibians, fish other chordates and invertebrates and also includes their young and eggs.
- (15) Habitat includes land water or vegetation which is natural home of wild animals
- (16) Hunting with its grammatical variations and cognate (related to) expressions includes:
- i). Killing or poisoning of any wild animal or captive animal and **every attempt to do so**
  - ii). Capturing coursing, snaring, trapping driving or baiting any wild or captive animal and **every attempt to do so.**
  - iii) Injuring or destroying or taking any part of the body of any such animals.
- (17) “Land” includes canals, creeks and other water channels, reservoirs, rivers, streams and lakes, whether artificial or natural.

# WILDLIFE PROTECTION ACT, 1972

## Hunting of Wild Animals

- Sec.9: Prohibition of Hunting
- Sec.11: Hunting of wild animals to be permitted in certain cases
- Sec.12: Grant of permit for special purposes



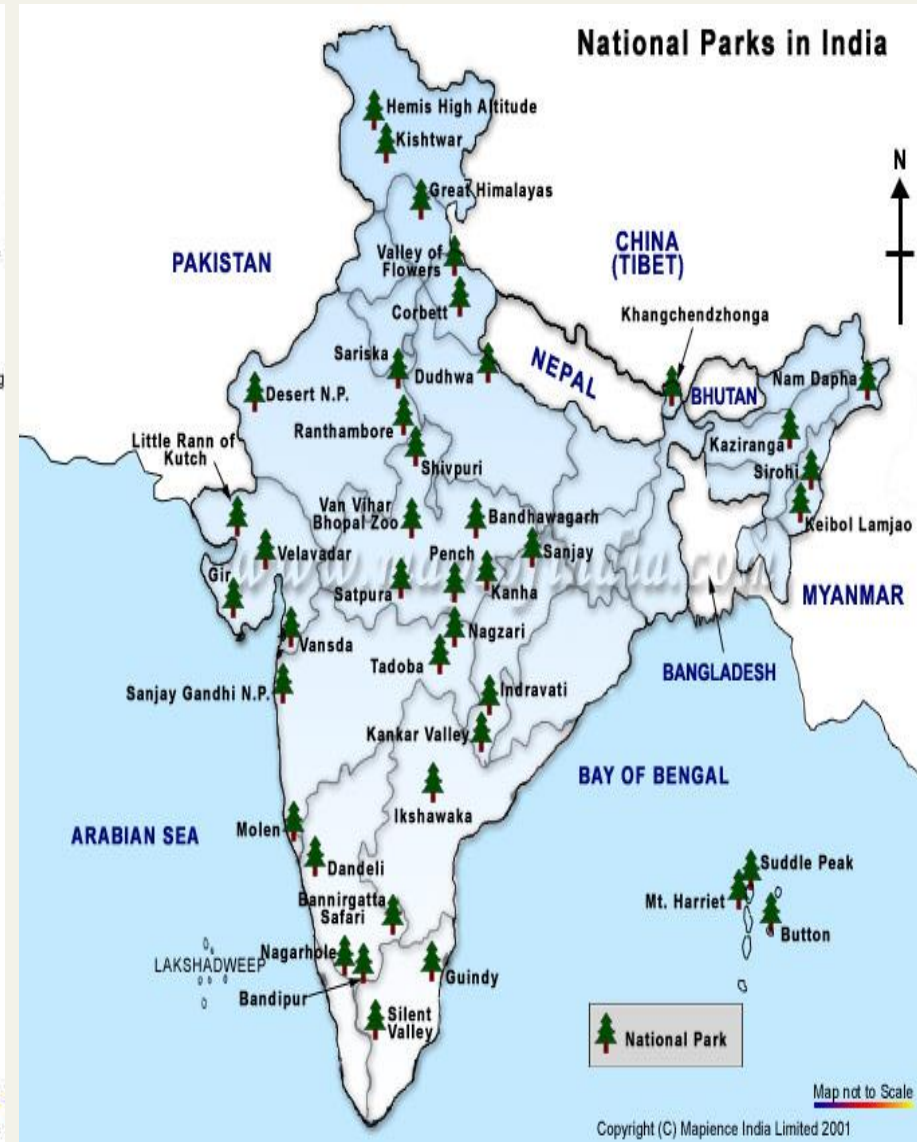
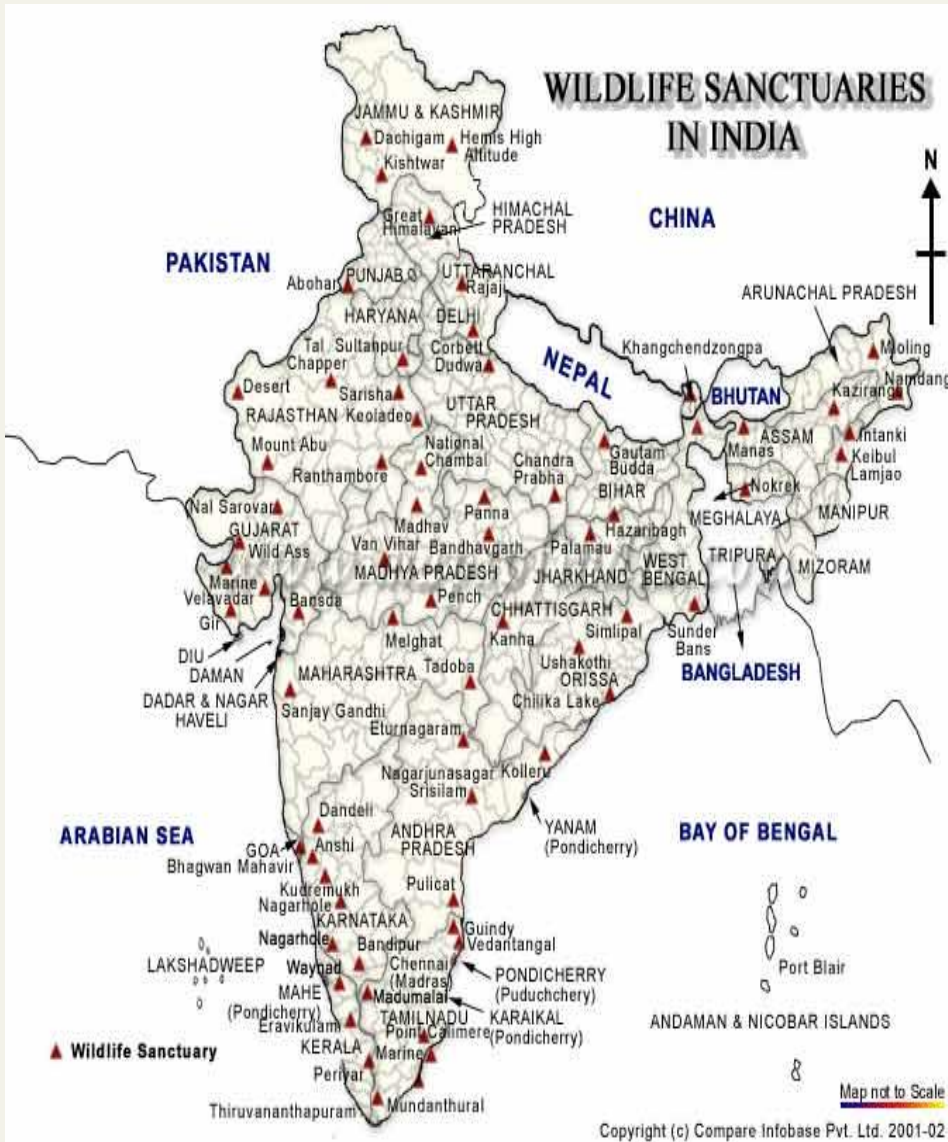




# **WILDLIFE PROTECTION ACT, 1972**

## **Protected Areas under Wildlife (Protection) Act 1972**

- Sanctuaries (Section 26-A)
- National Parks( Section 35)
- Conservation reserves (Section 36-A)
- Community reserves (Section 36-C)
- Section-27 – Restriction on entry
- Section-28 – Grant of permit by CWLW for
  - a) investigation and study of wildlife
  - b) Photography
  - c) Scientific research
  - d) Tourism
- Permit subject to payment of prescribed fee
- Section-29 Destruction etc., Prohibited in Wildlife Sanctuary





# WILDLIFE PROTECTION ACT, 1972

## Cont.....

- Section- 30 Causing of fire prohibited
- Section- 31 Entry with weapon prohibited
- Section- 32 Ban on injurious substances
- Section-33 Control of sanctuaries.
  - CWLW may permit construction of roads
  - Buildings, fencing, barrier, gate
  - Regulate grazing
  - Permit habitat improvement works
- Section – 39.
  - (1) Every –
    1. Wild animal
    2. Animal article
    3. Imported ivory
    4. Vehicle, weapon, tool, trap involved in offence **shall be Govt. property**
  - (2) Any person who obtains such Govt. properties shall report to authorities within 48 hrs.



# WILDLIFE PROTECTION ACT, 1972

## Cont.....

- Section – 50 –

- (1) Any forest officer can enter, search, arrest and detain.
- (4) Any person detained shall be produced before a magistrate forthwith.
- (8) Officer not below ACF can issue search warrant, record evidence.
- (9) Any evidence recorded by the ACF before the accused shall be admissible before a magistrate. **However the State must notify either by name or by Rank through a Gazette Notification as prescribed in the Section 50 Sub-section 8. Without a notification the admissibility of the confessional statement may be challenged in the court of law.**



# **WILDLIFE PROTECTION ACT, 1972**

## **Types of Wildlife Crime encountered**

- Hunting with weapon, trap, snare, net, poison, livewire.
- Keeping live animals like Deer, tortoise, birds, snakes as pets.
- Keeping wild animal articles like skin, horns as trophies without possession certificate.
- Transporting wild animals and wild animal articles without transit permit.
- Road accidents
- Train accidents
- Trade through internet



# WILDLIFE PROTECTION ACT, 1972

## Illegal Trade through Internet

- [www.ricepuller.com](http://www.ricepuller.com) – offender name – B.Srinivas, MBA for trade in Red Sand boa (code : Double engine)
- [www.olx.in](http://www.olx.in) - offender name – T.Karthik Reddy, B.Tech, M.Srinivasulu, MCA for trade in Indian soft shelled turtle (Code: Four wheeler)





# WILDLIFE PROTECTION ACT, 1972

## Species involved in Illegal Trade

- Star Tortoise
- Flap shelled Turtle
- Scaly ant eater
- Porcupine
- Red Sand boa
- Slender Loris
- Tiger / Panther Skin and Bones
- Crocodile, Snake or other Reptile skin
- Deer skin
- Frogs & Lizards
- Red sanders wood
- Herbal Species,
- Rhino Horn, Elephant Tusks, Pangolin Scales





# **WILDLIFE PROTECTION ACT, 1972**

## **Difficulties in booking wildlife crime**

- Vast jurisdiction of protection staff. (???)
- Lack of thorough knowledge of Wildlife Act.
- Lack of mobility and communication.
- Most of the crime occur late in the night.
- Scene of crime often in interior forests.
- People in nearby areas mostly illiterate and reluctant witnesses.
- Persons involved in hunting are well to do and influential.
- Lack of veterinary and forensic facilities
- Lack of knowledge of CrPC and other Laws.



# **WILDLIFE PROTECTION ACT, 1972**

## **PENALTIES**

- Any person who contravenes any provisions of this Act, except Chapter V-A and section 38J or any rule or order made there under or who commits a breach of any of the conditions of any license or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to three years or with fine which may extend to twenty five thousand rupees or with both.
- Provided that where the offence committed is in relation to any animal specified in Schedule I or Part II of Sch.II, or meat of any such animal or animal article, trophy, or uncured trophy derived from such animal or where offence relates to hunting in a sanctuary or a National Park, or altering the boundaries of a sanctuary or a National Park, such offence shall be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and also with fine which shall not be less than ten thousand rupees.
- Provided further that in the case of a second or subsequent offences of the nature mentioned in this sub-section, the term of imprisonment shall not be less than three years but may extend to seven years and also with fine which shall not be less than twenty-five thousand rupees.



# WILDLIFE PROTECTION ACT, 1972

## Cont.....

- Section – 54 Power to compound offences
  - Officer not below Dy.CF only can compound
  - Maximum composition fee Rs.25000/-
  - On payment person shall be discharged and no further action taken
  - Offences with minimum imprisonment cannot be compounded
- Section – 55 Cognizance of offences
  - Court takes Cognizance of offence ONLY on a COMPLAINT.
  - This at times hurts the police cases as they are used to filing Police Report. Although they are empowered to file a complaint.
- Section – 57 When a person is in possession of animal, animal article etc., the burden of proof lies with the accused.





# **WILDLIFE PROTECTION ACT, 1972**

## **SUPREME COURT ORDERS**



### **WP (Civil) No.202/95, Dt:14.02.2000**

“restrained the Govts. from ordering the removal of dead, diseased, dying or wind fallen trees, drift wood and grasses etc., from any National Park or Game Sanctuary or forests”



### **WP (Civil) No.337/95, Dt:12.11.2000**

“Pending further orders, no de-reservation of forests / sanctuaries / national parks shall be affected”



### **WP (Civil) No.47/98, Dt:20.11.2000**

“No State Govt. or U.T shall setup a new Zoo without getting clearance from CZA and orders of Supreme Court”

A Bench of Justices A.K. Patnaik and Swatanter Kumar said: **“This court passed an order on July 24, 2012 that till final guidelines are issued, core areas won’t be used for tourism”.**

**- Ban on Tourism in Tiger Core Areas – 16<sup>th</sup> Oct, 2012**





# Thank You!