

# Draft Indian forest Act 2019

May 17, 2019

## Manifest Pedagogy

Whenever a new law or draft law comes there's a general trend of asking the changes in the archaic law. There one needs to prepare for the positives and negatives of the amendments. Handful provisions have to be remembered to get more marks in Mains and prelims.

## In news

Draft Indian forest Act 2019

## Placing it in the syllabus

Environment-Conservation

## Static dimensions

- Forests Rights act 1927

## Current dimensions

- Provisions of Draft Indian forest Act 2019
- Comparison between Forests Rights act 1927 and Draft Indian forest Act 2019

## Content

### Forests Rights act 1927

The 1927 Indian Forest Act was an act to consolidate forest laws, the transit of forest products and duties that could be levied on 'Forest Product'. The act deals with reserved forest, village forest, protected forest, control over forests

and lands not being property of government, the duty on timber and other forest produce, regulation transit of forest products, collection of timber, penalties and procedures, cattle – trespass, forest officers and other miscellaneous provisions.

This act does not stipulate a specific forest definition. The act sets out three categories of forests, such as reserve forest, protected forest, and village forest

### **Provisions of Draft Indian forest Act 2019**

**The proposed draft act replaces the colonial act of 1927, following are the provisions of proposed act;**

- **Power to prosecute:** The draft act enhances the policing and quasi-judicial powers that the forest officials enjoyed under the original act and provide them yet more. This includes powers to use firearms with exceptional levels of immunity from prosecution.
- **Management powers:** It also proposes to restore higher management powers and a degree of veto power with the forest bureaucracy over the Forest Rights Act, 2006. Forest officials would be able to deny or extinguish rights over traditional forests of tribals, even those already recognised under the FRA, reduce or restrict tribals and forest dwellers' access to forest produce (which they own under the FRA), and diminish the role of gram sabhas (village assemblies) by running a parallel system of "village forests" in which forest officials would have the last say.
- **Intervention by centre:** According to the draft law Centre will be able to intervene in the states on matters of management of forestlands, overruling the states on several counts when it deems fit.
- **Allow for commercial plantations:** Further, the law proposes to open any patch of forests it deems fit for commercial plantations through either the forest

administration or through private agencies.

- **Infrastructure by state and UTs:** the act has mentions that The “State Government / Union Territory Administration shall develop the infrastructure for standardized lock-up rooms for housing the accused, transportation of accused, provide necessary articles for restraining the accused(s), armouries, safe custody of arms, ammunitions, shields, batons, helmets, armours, wireless, etc. to the Forest-officers for implementing the provisions of this Act” in each forest division of the country within two years.
- **Offences:** The draft act proposes certain offences that were bailable earlier have been proposed to be made non-bailable.
- **Power to use arms:** The draft law also proposes, “to provide indemnity to Forest-officer using arms etc, to prevent the forest offence. This indemnity shall be in addition to the immunity provided under section 197 of Code of Criminal Procedure 1973 for certain categories of Public Servant”.
- **Immunity:** It also proposes immunity which is higher than what other government officers are usually provided under various laws and similar to one provided under laws imposed in conflict zones, such as the Armed Forces (Special Powers Act). according to this No Forest-officer shall be arrested for any offence alleged to have been committed or purported to have been committed in discharge of his official duties, without causing out an inquiry by an authority to be notified by the State Government for the purpose.

As per the provisions of the draft act even state governments would not be permitted to grant sanction for prosecution against forest officials for alleged wrong done or excess committed without first constituting an inquiry under an executive magistrate.

- **Additional power to forest officials:** According to the provisions of the draft act which gives additional power to forest officials mentions, “Whoever attempts to contravene, or abets the contravention of, any of the provisions of this Act or of any rule of order made thereunder shall be deemed to have contravened that provision or rule or order, as the case may be. That any person, forest officer, any officer of the State Government cannot withdraw forest offence cases registered under the Principal Act.”
- **Production forest:** The draft law proposes to create a new class of forests called ‘production forests’ as well as declare any forests as “conservation area for the purpose of enhanced carbon sequestration”. The conservation areas will also be opened to “active forest management for enhancing vegetational growth by reforestation and afforestation.”

### **Comparison between Forests Rights act 1927 and Draft Indian forest Act 2019**

- The Indian Forest Act, 1927, is an incongruous relic, its provisions having been drafted to suit the objectives of a colonial power that had extractive uses for forests in mind
- The draft Bill reinforces the idea of **bureaucratic control of forests**, providing immunity for actions such as use of firearms by personnel to prevent an offence. The hardline policing approach is reflected in the emphasis on creating the infrastructure to detain and transport the accused, and to penalize entire communities through denial of access to forests for offences by individuals. The colonial act of 1927 also mentions bureaucratic control over forest and hardline policing.
- The Indian Forest Act, 1927 which the British rulers imposed to take over Indian forests, used them to

produce timber, curtailed the rights of millions. The new draft law which replaced the colonial law has not only retained but also enhances policing and quasi-judicial powers that the forest officials enjoyed under the original act and provide them yet more. This includes powers to use firearms with exceptional levels of immunity from prosecution.

- Like the act of 1927, the proposed draft act also gives providing immense discretion and powers to the forest bureaucracy.
- Like the forest act of 1927, the draft act also mentions a colonial provision of collective punishment of communities for crimes committed by individuals under the forest law. The clause reads, "Whenever a fire is caused wilfully or by gross negligence in a reserved forest, or theft of forest produce or grazing by cattle occur the State Government may 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 a period as it may think fit."