



Biological Diversity Act, 2002

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Background

The **Biological Diversity Act, 2002** was born out of India's attempt to realise the objectives enshrined in the **United Nations Convention on Biological Diversity (CBD) 1992** which recognizes the sovereign rights of states to use their own Biological Resources.

- **Biodiversity:** The biodiversity means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of ecosystems
- **Biological Resources:** The biological resources means plants, animals and micro-organisms or parts thereof, their genetic material and by-products (excluding value added products) with actual or potential use or value, but does not include human genetic material.

The Biological Diversity Act, 2002

The act was enacted in 2002, it **aims at the conservation of biological resources**, managing its **sustainable use** and **enabling fair and equitable sharing benefits** arising out of the use and knowledge of biological resources with the local communities.

Salient Features of the Act

- The Act prohibits the following activities without the prior approval from the **National Biodiversity Authority:**
 - Any person or organisation (either based in India or not) obtaining any biological resource occurring in India for its research or commercial utilisation.
 - The transfer of the results of any research relating to any biological resources occurring in, or obtained from, India.
 - The claim of any intellectual property rights on any invention based on the research made on the biological resources obtained from India.

- The act envisaged a three-tier structure to regulate the access to biological resources:
 - **The National Biodiversity Authority (NBA)**
 - **The State Biodiversity Boards (SBBs)**
 - **The Biodiversity Management Committees (BMCs)** (at local level)
- The Act provides these authorities with special funds and a separate budget in order to carry out any research project dealing with the biological natural resources of the country.

It shall supervise any use of biological resources and the sustainable use of them and shall take control over the financial investments and their return and dispose of those capitals as correct.
- Under this act, the Central Government in consultation with the NBA:
 - Shall notify **threatened species** and prohibit or regulate their collection, rehabilitation and conservation
 - Designate institutions as repositories for different categories of biological resources
- The act stipulates all offences under it as **cognizable and non-bailable**.
- Any grievances related to the determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, shall be taken to the **National Green Tribunal (NGT)**.

The other laws that NGT deals with, include:

- The Water (Prevention and Control of Pollution) Act, 1974,
- The Water (Prevention and Control of Pollution) Cess Act, 1977,
- The Forest (Conservation) Act, 1980,
- The Air (Prevention and Control of Pollution) Act, 1981,
- The Environment (Protection) Act, 1986,
- The Public Liability Insurance Act, 1991

Exemptions from the Act

- The Act excludes **Indian biological resources** that are **normally traded as commodities**.

Such exemption holds only so far the biological resources are used as commodities **and for no other purpose**.
- The act also excludes **traditional uses** of Indian biological resources and associated knowledge and when they are used in **collaborative research projects between Indian and foreign institutions** with the approval of the central government.
- **Uses by cultivators and breeds**, e.g. farmers, livestock keepers and bee keepers and traditional healers e.g. vaidas and hakims are also exempted.

The National Biodiversity Authority

- The **National Biodiversity Authority (NBA)** was established in **2003** by the Central Government to implement India's Biological Diversity Act (2002).
- It is a **Statutory body** that performs facilitative, regulatory and advisory functions for the Government of India on the issue of Conservation and sustainable use of biological resources.
- The NBA has its **Headquarters in Chennai**, Tamil Nadu, India.

Structure of the NBA

The National Biodiversity Authority consists of the following members to be appointed by the central government, namely:

- **A Chairperson.**
- **Three ex officio members**, one representing the Ministry dealing with Tribal Affairs and two representing the Ministry dealing with Environment and Forests.
- **Seven ex-officio members** to represent respectively the Ministries of the Central Government dealing with:
 - Agricultural Research and Education
 - Biotechnology
 - Ocean Development
 - Agriculture and Cooperation
 - Indian Systems of Medicine and Homoeopathy
 - Science and Technology
 - Scientific and Industrial Research;
- **Five non-official members** to be appointed from amongst specialists and scientists having special knowledge and experience in the required matters.

Functions of the NBA

- Creating an enabling environment, as appropriate, to promote conservation and sustainable use of biodiversity.
- **Advising the central government, regulating activities and issuing guidelines** for access to biological resources and for fair and equitable benefit sharing in accordance with the Biological Diversity Act, 2002.
- Taking necessary **measures to oppose the grant of intellectual property rights** in any country outside India on any biological resource obtained from India or knowledge associated with such biological resources derived from India illegally.
- **Advising the State Governments** in the selection of areas of biodiversity importance to be notified as heritage sites and suggest measures for their management.

State Biodiversity Boards (SBBs)

- **The SBBs** are established by the State Governments in accordance with **Section 22** of the Act.

- **Structure:** The State Biodiversity Board consists of the following members:
 - **A Chairperson**
 - Not more than **five ex officio members** to represent the concerned Departments of the State Government
 - Not more than **five members from amongst experts** in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources.
 - **All the members of the SBB are appointed by the respective State Governments.**

Functions of SBBs

- **Advise the State Government**, subject to any guidelines issued by the Central Government, on matters relating to the conservation, sustainable use or sharing equitable benefits.
- **Regulate by granting approvals** or otherwise requests for **commercial utilisation or bio-survey and bio-utilisation** of any biological resource by people.

Note:

- There are no State Biodiversity Boards constituted for Union territories.
- The National Biodiversity Authority exercises the powers and performs the functions of a State Biodiversity Board for the UTs.

Biodiversity Management Committees (BMCs)

According to **Section 41 of the Act**, every local body shall constitute the BMC within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including:

- Preservation of habitats
- Conservation of Landraces
- Folk varieties and cultivars
- Domesticated stocks And breeds of animals
- Microorganisms And Chronicling Of Knowledge Relating To Biological Diversity

Structure

- It shall consist of **a chair person** and **not more than six persons** nominated by the local body.
 - Out of total members of a BMC, **not less than one third should be women** and not less than **18% should belong to the Scheduled Castes/ Scheduled Tribes.**
- The Chairperson of the Biodiversity Management Committee shall be elected from amongst the members of the committee in a meeting to be chaired by the Chairperson of the local body.

- The chairperson of the local body shall have the casting votes in case of a tie.

Functions

- The main function of the BMC is to prepare **People’s Biodiversity Register** in consultation with the local people.
- The register shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other.

People’s Biodiversity Registers (PBR):

- The PBRs focus on **participatory documentation of local biodiversity**, traditional knowledge and practices.
The register shall contain comprehensive information on the **availability and knowledge of local biological resources**, their medicinal or any other use or any other traditional knowledge associated with them.
- They are seen as **key legal documents** in ascertaining the rights of local people over the biological resources and associated traditional knowledge.

Biodiversity Heritage Sites (BHS)

- **Under Section 37 of Biological Diversity Act, 2002** the State Government in consultation with local bodies may notify the areas of biodiversity importance as **Biodiversity Heritage Sites**.
- The Biodiversity Heritage Sites are the well defined areas that are unique, ecologically fragile ecosystems - **terrestrial, coastal and inland waters and, marine** having rich biodiversity comprising of any one or more of the following components:
 - richness of wild as well as domesticated species or intra-specific categories
 - high endemism
 - presence of rare and threatened species
 - keystone species
 - species of evolutionary significance
 - wild ancestors of domestic/cultivated species or their varieties
 - past preeminence of biological components represented by fossil beds
 - having significant cultural, ethical or aesthetic values; important for the maintenance of cultural diversity (with or without a long history of human association with them)
- Areas having any of the following characteristics may qualify for inclusion as BHS.

Biodiversity Heritage Site (BHS)	District/State
Nallur Tamarind Grove	Bangalore, Karnataka
Hogrekan	Chikmagalur, Karnataka

University of Agricultural Sciences, Bengaluru	Karnataka
Ambaraguda	Karnataka
Glory of Allapalli	Maharashtra
Tonglu BHS and Dhotrey BHS under the Darjeeling Forest Division	Darjeeling, West Bengal
Mandasaru	Odisha
Dialong Village	Manipur
Ameenpur lake	Telangana
Majuli	Assam
Gharial Rehabilitation Centre	Lucknow, Uttar Pradesh
Chilkigarh Kanak Durga	West Bengal
Purvatali Rai	Goa
Naro Hills	Madhya Pradesh
Asramam	Kerala