



## Biological Diversity (Amendment) Bill, 2021

**For Prelims:** [Biological Diversity \(Amendment\) Bill, 2021](#), [Convention on Biological Diversity](#), [National Biodiversity Authority](#), [Intellectual Property Rights](#), [AYUSH](#).

**For Mains:** Biological Diversity (Amendment) Bill, 2021.

[Source: TH](#)

### Why in News?

Recently, the [Biological Diversity \(Amendment\) Bill, 2021](#) has been passed in the Lok Sabha.

### What is the Background?

- The Biological Diversity Act, 2002 was enacted in response to **India's commitments under the [Convention on Biological Diversity \(CBD\)](#)** of 1992.
  - The CBD recognizes that countries **have the right to control their biological resources** and sets the stage for **regulating access to these resources** based on national legislation.
- To effectively manage biological resources and associated traditional knowledge, the Act establishes a **three-tier structure**:
  - the [National Biodiversity Authority \(NBA\)](#) at the national level
  - State Biodiversity Boards (SBBs) at the state level
  - Biodiversity Management Committees (BMCs) at the local level.
- **In December 2021**, the Biological Diversity (Amendment) Bill, 2021 was introduced in Lok Sabha **to amend the 2002 Act**.
  - The amendments are designed to **align the Act with current needs and developments**, while supporting sustainable biodiversity conservation and utilization in India.

### What are the Key Provisions of the Biological Diversity (Amendment) Bill, 2021?

Provisions	The Biological Diversity Act, 2002	Amendments to the 2002 Act
<b>Access to Biological Resources</b>	The Act requires <b>anyone seeking to access biological resources or associated knowledge in India</b> to obtain prior approval or inform the regulatory authority about their intent.	The Bill modifies the classification of entities and activities that require intimation, while also introducing exemptions to certain cases.

<b>Intellectual Property Rights</b>	Concerning <b>Intellectual Property Rights (IPR)</b> , the Act currently demands NBA approval before applying for IPR related to biological resources from India.	The Bill suggests that approval will be required before the actual grant of the IPR, not during the application process.
<b>Exempting AYUSH Practitioners</b>		It seeks to exempt registered <b>AYUSH</b> medical practitioners and people accessing codified traditional knowledge, among others, from giving prior intimation to State biodiversity boards for accessing biological resources for certain purposes.
<b>Benefit Sharing</b>	The Act mandates <b>benefit sharing, which involves sharing both monetary and non-monetary</b> benefits with those who conserve biodiversity or hold traditional knowledge associated with it.  NBA determines <b>the terms of benefit sharing</b> when granting approvals for various activities.	The Bill <b>removes the applicability of benefit sharing</b> requirements from research, bio-survey, and bio-utilisation.
<b>Criminal Penalties</b>	The Act imposes <b>criminal penalties</b> , including imprisonment, for offenses such as not obtaining approval or intimation for specific activities.	The Bill, on the other hand, <b>decriminalizes these offenses</b> and introduces fines ranging from one lakh to fifty lakh rupees instead.

## What are the Concerns Related to the Biological Diversity (Amendment) Bill, 2021?

- **Favoring Industry over Conservation:**
  - Critics argue that the amendments seem to prioritize industry interests rather than **focusing on biodiversity conservation**, which goes against the spirit of the CBD.
  - The CBD emphasizes sharing benefits **from biodiversity use with the communities** that have conserved it for generations.
  - The amendments may **weaken the framework for benefit-sharing** and community involvement.
- **Decriminalization of Violations:**
  - The Bill proposes to decriminalize violations, removing the **power of the NBA** to file FIRs against parties that do not comply with regulations.
  - This may weaken the **enforcement of biodiversity protection** laws and hinder efforts to deter illegal activities.

- **Exemption for Domestic Companies:**
  - Only "foreign-controlled companies" would need to **seek permission for using biodiversity resources**. This could potentially **create loopholes for domestic companies** with foreign shareholding to bypass the approval process, raising concerns about unchecked exploitation of biodiversity.
- **Limited Benefit Sharing:**
  - The inclusion of "codified traditional knowledge" exempts certain users, including practitioners of Indian systems of medicine, from the **need to share benefits**.
  - This may lead to **profiteering domestic companies** avoiding their responsibility to share profits with the communities holding traditional knowledge.
- **Ignoring Conservation Issues:**
  - Critics argue that the amendments do not **adequately address the challenges faced by biodiversity conservation in India**.
  - The Bill appears to focus more on **reducing regulations and facilitating** business interests, raising concerns about the potential negative impact on biodiversity and traditional knowledge holders.

## Way Forward

- There is a need to strike a **balance between promoting economic development** and ensuring the sustainable conservation of India's biodiversity.
- There is a need to engage in **transparent and inclusive consultations** with various stakeholders, including local communities, indigenous people, conservationists, scientists, and industry representatives.
- This will help ensure that all perspectives are considered in the decision-making process and that the amendments align with the principles of biodiversity conservation.

## UPSC Civil Services Examination Previous Year Question (PYQ)

### Q. Consider the following statements: (2023)

1. In India, the Biodiversity Management Committees are key to the realization of the objectives of the Nagoya Protocol.
2. The Biodiversity Management Committees have important functions in determining access and benefit sharing, including the power to levy collection fees on the access of biological resources within its jurisdiction.

### Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

**Ans: (c)**

**Exp:**

- Biodiversity Governance in India: India's Biological Diversity Act 2002 (BD Act), is in close synergy with the Nagoya Protocol and aims to implement provisions of the Convention on Biological Diversity (CBD).
- The Nagoya Protocol sought to ensure commercial and research utilisation of genetic resources led to sharing its benefits with the government and the community that conserved such resources.
- Under Section 41(1) of the Biological Diversity Act, 2002, every local body in the State shall constitute a Biodiversity Management Committee within its area of jurisdiction. Hence, statement 1 is correct.
- The main function of the BMC is to prepare People's Biodiversity Register (PBR) in consultation with local people. The BMC shall be responsible for ensuring the protection of the knowledge recorded in PBR, especially to regulate its access to outside persons and agencies.

- In addition to preparation of the People's Biodiversity Register (PBR), the BMCs in their respective jurisdiction shall also be responsible for the following :-
  - Conservation, sustainable use and access and benefit sharing of biological resources.
- Regulation of access to the biological resources and/ or associated Traditional Knowledge, for commercial and research purposes.

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### **Mains**

**Q.** How is the Government of India protecting traditional knowledge of medicine from patenting by pharmaceutical companies? **(2019)**

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