

THE BIOLOGICAL DIVERSITY (AMENDMENT) BILL, 2021 AND ITS CHALLENGES

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Abstract

India adopted the Biological Diversity Act in 2002 to prevent the loss of biodiversity. Recently, there has been a debate on the intention and public concern of the government regarding the Biological Diversity (Amendment) Bill, 2021. The Amendment, Bill 2021, failed to establish a clear picture of regulatory provisions and left many unanswered questions related to proposed provisions. There is uncertainty in the modification and replacement of several terms and definitions throughout the bill, which creates serious ambiguities among the readers. The proposed document also selectively addresses India's international obligations related to the CBD and Nagoya Protocol towards bio-conservation, potentially infringing the FEBS rights of local people and communities

Keywords: Biodiversity, The Biological Diversity (Amendment) Bill, 2021, CBD, Nagoya Protocol, FEBS.

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INTRODUCTION

Biodiversity¹ refers to the variety of flora and fauna such as plants – wild as well as cultivated, animals – wild as well as domesticated, their ancestors, relatives, and a variety of microbes found on Earth. However, biodiversity is not limited to the diversity of organisms but also includes the environment in which they live, which together make the ecosystem. Biodiversity refers to the number of flora and fauna found in each geographical area and is related to the types of plants, animals, and microorganisms.² Biodiversity is the measure of the relative diversity among organisms present in different ecosystems.³

Over the past decades, widespread loss of biodiversity has affected all developed and developing countries immensely. This has given impetus to the development of the ‘Global Biodiversity Governance’. Marginalized communities are at increased risk due to species extinction, over-harvesting, adoption of exotic species, habitat loss, pollution, and climate change.⁴ These concerns of loss of biodiversity have led to a gradual re-evaluation of how resource availability is integrated and coordinated with the developmental needs of mankind.

In this context, efforts are being made at the national and international levels related to biodiversity to come out with a feasible ecological policy.

¹ The term “Biological Diversity” and “Biodiversity” is used interchangeably.

² Pullaiah, T. (2019). *Global Biodiversity*, Volume 1: Selected Countries in Asia. Canada USA: Apple Academic Press.

³ Verma, Ashok. (2017). *Genetic Diversity as Buffer in Biodiversity*. 4. 61-63. 10.21088/ijb.2394.1391.4117.9.

⁴ Moore, Andrew. (2019). *1 Million Species Are At Risk Of Extinction — Here’s Why It Matters*. NC State University. Available at: 1 Million Species Are At Risk Of Extinction — Here’s Why It Matters | College of Natural Resources News (ncsu.edu)

As a result of the rapid loss of biodiversity, countries from all over the world came together at the Rio Summit in 1992 to reflect on this cause. The Convention on Biological Diversity (CBD) came into force on 29 December 1993, largely driven by the growing commitment of the international community to sustainable development.⁵

The Convention on Biological Diversity (CBD) is a legally binding multilateral treaty, that has got three main goals that include- conservation of biological diversity (or biodiversity), sustainable use of its components and fair and equitable sharing of benefits from genetic resources. The CBD laid the foundation for an ethical ban on the inappropriate use of biodiversity by the goals. Also, Article 15⁶ and Article 8 (j)⁷ of CBD, the attention of the international community was drawn to its goals and priorities. With these guidelines in mind, most of the CBD signatories reunited in Nagoya, Japan in 2010 and adopted the “Nagoya Protocol” to contribute toward biodiversity conservation.⁸ The purpose of this protocol is to give effect to the provisions of fair and equitable distribution of the CBD.

Similarly, India, a major macro-biodiversity country, adopted the Biological Diversity Act (BDA) in the year 2002 to prevent the loss of biodiversity as

⁵ CBD, *Convention on Biological Diversity*. Available at: <https://www.cbd.int>

⁶ Article 15 of the CBD recognizes the right of states to their genetic resources such as Animal genetic resources for food and agriculture, Forest genetic resources and Germplasm genetic resources that are preserved for various purposes such as breeding, preservation, and research.

⁷ Article 8 (j) recognizes the rights of communities to their traditional knowledge of pharmaceuticals, herbal medicines and other products.

⁸ *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity*: text and annex / Secretariat of the Convention on Biological Diversity. Available at: <https://www.cbd.int/abs/doc/protocol/nagoya-protocol-en.pdf>

well as to reverse the effects of loss.⁹ Till now, the BD Act has been regarded as a significant step toward the conservation of India's vast biodiversity. The Government of India took cognizance of the provisions of the CBD and realized the importance of conservation of biological resources which were falling fragile due to the pressure of biotechnological developments. As result, this umbrella law had been implemented in the year 2002 for safeguarding the ecology in a wider context. Now once again, there has been a debate on the intention and public concern of the government regarding the Biological Diversity (Amendment) Bill, 2021.¹⁰ There are contentions which emphasize how this proposed amendment will demean the present legal safeguards provisions of the indigenous communities in India's biodiversity and empower multiple agencies like the National Biodiversity Authority (NBA) and the State Biodiversity Boards (SBBs).

In this context, the Indian Government is going to amend the Biodiversity Act, for which the Joint Committee of Parliament had sought objections or suggestions from the people. The Joint Committee of Parliament, in a public notice dated 16 December 2021, had sought public opinion on these amendments within 15 working days. That is, people must submit their opinion, and objections to these amendments by 31 January 2022. However, this question is still being asked in various circles as to why this important amendment was not referred to the Parliamentary Standing Committee on

⁹ *National Biodiversity Authority.* Available at: <http://nbaindia.org/content/20/35/1/bmc.html>

¹⁰ Tandon, Mridhu. Jain, Utkarsh. (2022). How Proposed Changes to the Biodiversity Act Lie on the Wrong Side of the Law. New Delhi: *The Wire: Science*. Available at: <https://science.thewire.in/environment/bill-amendments-biological-diversity-act-benefit-sharing-protection-rights/>

Science and Environment instead of the Joint Committee.¹¹

It is noteworthy that this law only came into the form of law after a decade of intense deliberation across the country in 2002 which was needed since the 90s itself. In that sense, is just 15 days enough for so many radical amendments in it? Apart from this, this law is also a product of the United Nations convention that has taken place on biological resources. Therefore, the Indian government should strictly adhere to the objectives of all those international conventions and especially the ‘Nagoya Protocol’ because this law is also directly related to India’s patent, intellectual property rights and sovereignty of the traditional knowledge related to local communities.

SPECIFIC LEGAL AND POLICY CONCERNS

The Biological Diversity (Amendment) Bill 2021 is the proposed amendment to the Biological Diversity Act, 2002. Now, it is facing some objections because of its certain provisions such as exemption to Ayurveda, Yoga and Naturopathy, Unani, Siddha, and Homeopathy (AYUSH) practitioners in the procedures for access and benefit-sharing (ABS) in terms of the biological resources such as medicinal and aromatic plants.¹² However, this bill represents clarity at some level (e.g., definition of terms such as ‘Access’¹³ in the Sec 3 (a) of this proposed amendment), but there

¹¹ Express News Service (2021). Refer Biological Diversity Bill to standing committee: Ramesh. Delhi: *The Indian Express*. Available at: <https://indianexpress.com/article/india/refer-biological-diversity-bill-to-standing-committee-ramesh-7678571/>

¹² Bhutani, Shalini. Kohli, Kanchi. (2022). Why Amendments to India’s Biodiversity Act Need a Public Debate. New Delhi: *The Wire*. Available at: <https://thewire.in/government/why-amendments-to-indias-biodiversity-act-need-a-public-debate>

¹³ The Biological Diversity (Amendment) Bill, 2021 defines “access” as collecting, procuring or possessing any biological resource occurring in or obtained from India or

are many amendments proposed in the bill that depict more confusion and it needs clarity.¹⁴ All these present unclear or legal ambiguity demand a proper interpretation, otherwise, it will fail to address the real intent of the Biological Diversity Act.

The legal fraternity believes that some of the provisions in the proposed Act are proving to be a relaxation of the norms of protection of biodiversity, which can also be harmful to the ecology and go against the principle of sharing commercial benefits with indigenous communities.¹⁵ Also, they have expressed their concerns that how the Biological Diversity (Amendment) Bill 2021 did not fulfil the requirements of the pre-legislative consultative policy. It has been introduced without any public deliberation which is the most important component in the policy decision making. In this sense, there is a need for proper consultations at the initial stage of any policymaking because it provides a platform for the public and various stakeholders to interact with the policymakers in a real sense and equips the policymakers with the perspectives and new ideas of people.

In addition, this proposed amendment emphasizes more foreign investment which will bring challenges to the local communities and biological resources in terms of commercial benefit sharing. As the Ministry of Environment, Forest and Climate Change of India has also specifically revealed the matter of focusing on the interests of institutions and agencies

associated traditional knowledge thereto, for research or bio-survey or commercial utilisation.

¹⁴ Supra note 10

¹⁵ Nandi, Jayshree. (2021). Why legal experts are concerned about the Biological Diversity Amendment Bill 2021. New Delhi: *Hindustan Times*. Available at: <https://www.hindustantimes.com/india-news/why-legal-experts-are-concerned-about-the-biological-diversity-amendment-bill-2021-101639759979049.html>

related to only four sectors, such as the seed-producing sector, industry sector and research sector and shared the intention of changes. Thus, this policy brings a conflicting situation in the protection of biodiversity and the rights of all the indigenous communities.¹⁶

It is an irony that this proposed amendment focuses on the commercialization and exploitation of biological resources instead of addressing the rights of indigenous communities and the conservation of biological resources. Along with, it will not be exaggerated to say that there was a lack of democratic decisions in taking this policy decision, because it was consulted only among the industrialists before presenting the amendments in the Parliament. In that sense, India should have considered local deliberations of all stakeholders to decide and determine the benefit-sharing of the Biodiversity Act while following international Access to Benefit Sharing (ABS) agreements. Therefore, the proposed amendment to India's Biodiversity Act needs a public debate in its true sense.

The proposed amendment describes that when it comes to the commercialization and exploitation of the bio-resources, whether by an Indian company/entity or a “foreign-controlled company”, the impact on biodiversity does not matter. It is a matter of great concern that there is no proper justification available to protect the uncodified traditional knowledge in the proposed amendment.¹⁷ This bill is advocating for relaxation of the pharmaceutical industry and significantly benefits the AYUSH Ministry in

¹⁶ The Biological Diversity Act, 2002. Available at: <https://www.indiacode.nic.in/bitstream/123456789/2046/1/200318.pdf>

¹⁷ Supra note 10

the usage of codified knowledge¹⁸ to a large extent.

It is worth noting that India is a major mega-biodiversity country, where there is a vast store of genetic resources related to flora and fauna. We cannot deny that the Biological Diversity Act 2002 is a vital form of legislation which is the main instructor of biodiversity governance in the country. However, it has some ambiguities in regulation and mechanism which hinders the path of a just, equitable, humane, and sustainable society. Therefore, it is necessary that before taking policy decisions (The Biological Diversity [Amendment] Bill, 2021) related to biological diversity, an integrated re-evaluation of all human resource development and available resources should be done so that the importance of bio-conservation remains intact. In the same sequence, biodiversity governance must be ensured in such a way that the benefits of knowledge of biological resources reach the traditional communities directly. Therefore, this paper attempts to see the loopholes of the proposed amendments as there are so many unacceptable provisions which are contradictory to the Biological Diversity Act, 2002.

AN IRONY OF THE BIOLOGICAL DIVERSITY ACT IN INDIA

After 30 years of the Convention on Biodiversity, the Indian government still has not succeeded to fulfil the commitment toward Biodiversity law in the true sense because of poor regulatory mechanism and implementation. The recently proposed bill also created several challenges among policy experts and other stakeholders because of its absurd and objectionable provisions which are not feasible. As we know, the Biological Diversity

¹⁸ According to the World Intellectual Property Organisation (WIPO) - Codified traditional knowledge is knowledge which is documented and is systematically arranged.

(Amendment) Bill 2021 (Bill No. 158 of 2021) was brought before the parliament by the Union Minister of Environment, Forest, and Climate Change (Mr Bhupinder Rawat) on 16th December 2021. It is still before a Joint Parliamentary Committee which to date conducted almost 10 sittings for discussions or deliberations with various stakeholders related to this bill. One more thing to notice is that this proposed bill selectively focuses on India's international commitment or responds to concerns of the industry which also ruin the objective of the principal act¹⁹.

In addition to the discussion on biodiversity legislation in India, we found it is always a debatable issue since its inception. Before enacting BDA, 2002²⁰ also our parliamentarians did not show their genuine consideration or interest in this subject, there were only a few discussions that happened at that time which had depicted no serious attempt on the issues related to biodiversity and its challenges. The saddest part is that our parliamentarians still do not give attention to this subject and ignore its gravity, whereas this act is also interlinked with various other laws such as forest rights in India.

The recent Biological Diversity (Amendment) Bill, 2021 has also faced criticism by opposition parties and legal experts. Especially as how the amendments to the Biological Diversity Act were tabled in Parliament without consulting the Standing Committee on Science and Technology, Environment, Forests & Climate Change. According to the Chairman of the above-mentioned standing committee, this step is a “deliberate insult to the standing committee.”²¹ Similarly, legal experts showed their concerns on this

¹⁹ The Biological Diversity Act, 2002

²⁰ Parliamentary Debates Official Report: The Biological Diversity Bill, 2002

²¹ Sirur, Simrin. (2021). Jairam Ramesh writes to Speaker as govt ‘bypasses’ standing committee on Biodiversity Act tweak. *The Print*. Available at:

point and said that parliamentary procedure should be followed in introducing any law. It is important to consider that the standing committee has the power of reviewing all the concerns related to the Environment, Forests and Climate Change as it is a permanent panel which is permanent and functional throughout the year. Whereas the select committee is a temporary panel related to this mentioned bill.

The Biological Diversity (Amendment) Bill, 2021, introduced in Lok Sabha, has been referred to the Joint Committee of Parliament for examination and report. Given the broader implications of the proposed bill, the committee, chaired by Dr. Sanjay Jaiswal (MP), has decided to solicit memoranda containing views and suggestions from the general public, as well as NGOs, experts, stakeholders, and institutions in particular. The Joint Committee on the Biological Diversity (Amendment) Bill, 2021, has 31 members. Following this initiative, the Joint Committee held 13 meetings with various stakeholders.²²

Moving into the main part of this proposed amendment we have to consider that the Biodiversity Bill 2021, in its present form, has many flaws. However, the bill claims to the Convention on Biodiversity (CBD), 1992 but it seems that the spirit of the Convention is not put into practice. It is designed to ensure the conservation of biodiversity, its sustainable use and equitable sharing of benefits among the beneficiaries. Apart from this, this law is also a product of the United Nations conventions that have taken place on biological resources such as CBD. It cannot be denied that India

<https://theprint.in/environment/jairam-ramesh-writes-to-speaker-as-govt-bypasses-standing-committee-on-biodiversity-act-tweak/783603/>

²² See, *PRS Legislative Research*. Available at: <https://prsindia.org/parliamentary-committees/joint-committee-on-the-biological-diversity-amendment-bill-2021>

recognizes the objectives of these international conventions and the “Nagoya Protocol”. This law is also directly related to India's patent, intellectual property rights and sovereignty.

In this amendment act, Union Environment Minister, on behalf of his ministry, has given its objectives in total 7 points in the last part of this draft²³. In the first 4 points, concerned minister has explained the importance of this law and its relevance and coming to the fifth point, he says, “But due to all these features, the present form of this law is related to the medical sector related to biological resources, seed production. It is being repeatedly said on behalf of various stakeholders like sector, industry sector, and research sector that there is a need to simplify this law and reduce the conditions contained in it so that for joint research and investment, local communities can be benefited. Along with it, the scope of sharing of benefits can be increased and the conservation of biological resources can be further encouraged.”

It is noteworthy that the Union Environment Minister did not mention in this draft that the existing law has any problem with the local communities, the tribals who have traditionally used these biological resources and other communities or gram sabhas living in the forest etc. Where the geo-politics of the country has reached, the interests of the organized sectors and the local communities have been turned against each other in every respect. As such, these amendments should also be viewed from this point of view.

However, the Ministry has introduced this draft of amendments only at the

²³ See, *Statement of Objects and Reasons in the Biological Diversity (Amendment) Bill, 2021*. Available at:

[https://prsindia.org/files/bills_acts/bills_parliament/2021/Biological%20Diversity%20\(Amendment\)%20Bill,%202021.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2021/Biological%20Diversity%20(Amendment)%20Bill,%202021.pdf)

request of the beneficiaries of these special sectors or areas, whose declared main objectives are given in point 6, which are as follows-

- (i) It is necessary to reduce the pressure and dependence on wild medicinal plants and for this, it is necessary to encourage the cultivation (production) of medicinal plants.
- (ii) To promote the Indian system of medicine.
- (iii) To use the biological resources, present in India in such a way as to expedite research, patent application process, transfer of research results, without compromising with the United Nations Convention on Biological Diversity and its NAYOGA Protocol.
- (iv) To absolve of offenses contained in certain provisions.
- (v) To bring in maximum foreign investment keeping in view the research, patent and commercial interests of the range of biological resources without compromising on the interests of the country.

The above-mentioned changes of this proposed amendment have created many contentions. As concerned Minister has said while explaining the need for changes in this law, the present form of this law has objections to the institutions and agencies related to the medical sector, seed-producing sector, industry sector, and research sector. Therefore, it is certain that these proposed amendments are being brought keeping in mind the interests of these four areas. In this regard, we have to look into all these areas minutely to figure out the idea behind this legal attempt in a true sense.

Medical field- Indian system of medicine and AYUSH department of the government have been cited for this, but, on the pretext of this Ayurveda, one non-profit trust has established control of the country's market in a

very short time on the biological wealth of the country. This thing is not hidden from anyone. The performance and utility of the AYUSH department are yet to be established.²⁴

In this regard, a not-for-profit trust known as Patanjali (Divya Pharmacy Case) has been accused of exploitation of biological wealth and profit-sharing with local communities because of this law.²⁵ This current law gives special importance to local traditional knowledge and puts their interests first, which poses difficulties for such commercial but self-professional establishments to plunder organic wealth. So, these apprehensions are reinforced as to what these amendments are ultimately trying to pave the way for in the medical field.²⁶

In the annual report of the Protection of Plants Variety and Farmers Rights Authority, it has been told that in the year 2021 a total of 602 applications have been received by the authority which 237 applications are from the private sector, 193 are from the public sector and 172 are from farmers. Of these applications, 242 applications were received for crops that are becoming extinct (based on shared knowledge), 186 applications for seeds

²⁴ Dutta, Ritwick. (2022). Corporate control over biodiversity? That's what this new Bill would like to see. *Frontline*. Available at: <https://frontline.thehindu.com/environment/a-corporate-turn-biological-diversity-amendment-bill-favours-corporate-control-over-biodiversity/article65464082.ece>

²⁵ Jojan, Alphonsa, (2019). Developing Bio-Cultural Jurisprudence for Securing Rights of Indigenous Peoples and Local Communities – Divya Pharmacy v. UoI. *SpicyIp*. Available at: <https://spicyip.com/2019/03/developing-bio-cultural-jurisprudence-for-securing-rights-of-indigenous-peoples-and-local-communities-divya-pharmacy-v-uoi.html>

²⁶ Dr Marla, Soma. (2022). Free access for pharma corporates to loot rare forest wealth. *The Leaflet*. Available at: <https://theleaflet.in/free-access-for-pharma-corporates-to-loot-rare-forest-wealth/>

of new crops and 2 applications for gene production.²⁷ These figures create a picture that the private sector or the public sector, ready to go into private hands tomorrow, is looking at its future in the field of biological property. Undoubtedly, coming here, the important purpose of these amendments is also to encourage foreign investment.

There is also a special provision in this Act that if a “seed company” of any group of farmers has obtained rights or permission under the Protection of Plant Variety and Farmers’ Rights, 2001, then that group would not need to be licensed again under the Biodiversity Act. It is noteworthy that the Protection of Plant Variety and Farmers’ Rights, 2001 gives seed companies intellectual property rights to the seeds they have developed and also gives these rights to farmers on the seeds they have traditionally protected.

A cursory glance at the said bill reveals that the main objective of the proposed bill is to promote ease of doing business for those areas which are prominently dependent on biological resources. It appears to be a policy problem that the bill has only a footnote that mentions protection and benefits to local communities. The strangest thing is that the bill does not explicitly consider these communities and forest dwellers to be “stakeholders”. Therefore, it is fair to say in this context that this proposed bill in a way intends to undermine the positive development of India's biodiversity regime to ensure democratization.

If we look at the industry sector, then it was prevalent about the disputed three agricultural laws of last year that they have been brought only for the

²⁷ Protection of Plant Varieties and Farmers’ Rights Authority. (2021). *Annual Report:2020–21*. Available at: <https://plantaauthority.gov.in/sites/default/files/final-annual-report-2020-21.pdf>

unfettered possession of the industrialists on agriculture and farming, for which the government of the country could not give any concrete answer. However, the government hurriedly put an end to the discussion, basing it on practical politics and impending elections. But the above proposed Act of Biodiversity has once again exposed the intention of the government that it is giving more importance to the capitalist class.

This proposed amendment should also be seen from the point of view that by amending this law for big multinational corporate houses eager to invest in forest-based food items and agricultural products (agri-commodity), how much for their business profit. There will be a golden opportunity that they will be able to make uninterrupted progress. The recently released “Global Canopy Report Forest 500”²⁸ data provides us with important information in this direction. It talks about such a big business which is completely based on the destruction of forests and which has also been included in our daily lives forever to meet the food needs. So far, the business of such industries/companies in the whole world has been worth 500 trillion dollars, which is twice the total GDP of the United Kingdom. Although this business is mainly focused on palm oil, soya, dairy and timber, ultimately its basic need is uninterrupted control of natural forests. It is not a coincidence that industrial initiatives are also taking place in making seeds and jeans, whose eyes are also on these natural forests.²⁹

²⁸ Burley, H. & Thomson, E. (2021). A climate wake-up: but business failing to hear the alarm on deforestation. *2022 Annual Report: Global Canopy*, Oxford, UK. Available at: https://forest500.org/sites/default/files/forest500_2022report_final.pdf

²⁹ Ropes & Gray (March 8, 2022) Pending and Proposed Deforestation Legislation Will Add New Supply Chain Due Diligence and Reporting Requirements – An Overview of U.K., EU and U.S. Federal and State Initiatives. Available at: <https://www.ropesgray.com/en/newsroom/alerts/2022/March/Pending-and-Proposed-Deforestation-Legislation-Will-Add-New-Supply-Chain-Due-Diligence>

If we consider the point of the “research sector” under the proposed Bill, we find that the scope of research is very wide. Therefore, it is very important to decide first of all what are the objectives of any kind of research related to bio-resources? It is also no longer hidden from anyone that only large private and business classes come in the role of investors in making these activities meaningful. In other words, it is not difficult to understand whose interests it ultimately serves to promote all such joint research (e.g., big private entity/ multinational corporation).

It should always be remembered that the sharing of research results among different agencies is a complex process in the existing law, but in many cases, violation of law is also considered criminal. Regarding which the present proposed amendment is taking the opposite stance and is moving towards giving it the name of “civil offense” instead of considering it in the serious category of offenses. In this sense, it seems appropriate to say that this bill is also showing the intention of giving tremendous relaxation in the field of India's existing patent law, intellectual property rights and biopiracy. The ministry is looking at the possibilities of attracting foreign investment with this effort, which in a way is inviting new challenges for the country's bio-resources and their associated communities.

Apart from these apprehensions and issues, some other provisions such as a large-scale overhaul of the National Biodiversity Authority are also seen as a threat to its democratic nature. But it includes Agricultural Research and Education, Ministry of Agriculture and Farmers Welfare, AYUSH, Biotechnology, Forest, Environment and Climate Ministry, Forest and Wildlife, Forestry Research Institute, Earth Science, Panchayati Raj, Science and Technology, Scientific and Industrial Research, involving representatives of the Ministry of Tribal Affairs, etc can be a multipurpose

initiative, with mixed reactions to it.

But the success of such decisions cannot be overstated. However, this structural change makes it clear that the Ministry of Forest, Environment and Climate Change is trying to tighten its grip on this biodiversity authority. This can be estimated from the fact that as the Member Secretary of the Ministry of Forests and Environment, his importance in this authority will be much more.

However, now the matter is with the Joint Committee of Parliament and its report is awaited. It is to be expected that the Committee, after due deliberation on these amendments, will consider all its references transparently and try to maintain it in the interests of those who have the purpose for which this act came into existence.

CONCLUSION

In short, the Biological Diversity (Amendment) Bill, 2021 does not provide appropriate solutions to the problems of biodiversity on the ground. It defeats the intents of the Biological Diversity Act, 2002, the Convention on Biodiversity, 1992 and the Nagoya Protocol, 2010 by increasing access but decreasing benefit sharing. The major concern with the amendment bill is that corporate or foreign interests may exploit the loopholes in the permissions granted to traditional medicine and use it for commercial purposes, without sharing the benefits with the custodians of biodiversity. The recent Bill does not utter a single word about the protection of biodiversity and deliberately ignores the traditional rights of indigenous people.

In addition, the proposed amendment suffers from many ambiguities

related to its own regulatory and punitive provisions. Especially, the drafting of this Bill failed to reflect the status of international obligation and India's commitment to conserving the bioresources. Also, in the absence of a clear legislative framework, the bill is lacking vision which does not address substantive issues related to Indian biodiversity.

There are various concerns regarding this proposed amendment which need to be addressed in ensuring the democratization of biodiversity governance in the country. No public debate or consultations were done before presenting this Bill in the parliament which disconnects the relevant stakeholders and public at large from the legislature in the policy-making process.

This Bill is prioritizing trade over bio-conservation. Moreover, AYUSH Practitioners no longer need to seek approval for exemption, this will pave the way for "Bio-Piracy". The trade of biopiracy is the practice of exploiting naturally occurring genetic or biochemical material. In this way, this Bill decriminalizes violations like biopiracy and curtails the deterrent powers of the principal act which will create a big challenge in controlling the wildlife hunting, poaching, and smuggling and the illegal trade of all types of wild species.

The proposed amendments allow State Biodiversity Boards to represent BMCs to determine the terms of profit-sharing which is a sign of disempowerment of Biodiversity Management Committees. Whereas under the Biodiversity Act 2002, National and State Biodiversity Boards are required to consult Biodiversity Management Committees (constituted by each local body) while taking any decision relating to the use of biological resources.

The Bill gives an exemption for cultivated medicinal plants from the purview of the Act. However, it is practically impossible to know which plants should be cultivated and which plants are wild. So, this system needs to be elaborated further. No doubt, this provision may allow large companies to avoid the need for prior approval under the Biological Diversity Act's scope and benefit-sharing provisions, or to share profits with local communities. In this way, the proposed amendment bypassed haphazardly the concerns of the local community and corporatized its biological diversity along with all the traditional knowledge.

Finally, the Bill is not showing harmony with the traditional knowledge and rights of the indigenous communities regarding the commercial utilization of biological resources whereas local opinions matter judiciously in Biodiversity planning or legislation at large. There is a strong need to acknowledge the knowledge of local communities and promote them, also need to establish a two-way channel with the local communities.