

Joint Parliamentary Committee Report Summary

The Biological Diversity (Amendment) Bill, 2021

- The report of the Joint Parliamentary Committee on the Biological Diversity (Amendment) Bill, 2021 (Chair: Dr. Sanjay Jaiswal) was tabled in Parliament on August 2, 2022. The Bill was introduced in Lok Sabha on December 16, 2021. The Bill amends the Biological Diversity Act, 2002. The Act provides for the conservation of biodiversity and sharing of benefits from access to biodiversity and associated knowledge with local communities. Key observations and recommendations of the Committee include:
 - **Codified traditional knowledge:** The Bill exempts access to codified traditional knowledge from benefit-sharing provisions. However, it does not define the term ‘codified traditional knowledge’. The Committee observed that most of the traditional knowledge in the AYUSH system of medicine is codified. It also observed that traditional knowledge registered in the people biodiversity register may also be taken as codified. This may lead to denial of benefit to a majority of local traditional knowledge holders. The register is prepared by the local authorities to document biodiversity as per the provisions of the Act. The Committee recommended that the term be defined in the Bill. It should be defined as the knowledge derived from authoritative books specified in the First Schedule of the Drugs and Cosmetics Act, 1940. The Schedule lists books on Ayurveda, Siddha, and other traditional medicine systems.
 - **Cultivated medicinal plants:** The Bill exempts access to cultivated medicinal plants from benefit-sharing provisions. It provides that the central government may prescribe a manner of issuing certification of origin for cultivated medicinal plants. The Committee recommended removing the rule-making power. It instead recommended providing further clarification regarding the issuance of the certificate in the Bill itself. The Bill should provide that a certificate of origin will be obtained through an entry into the books of the concerned local authorities.
 - **Foreign-controlled company:** The Bill provides that a company incorporated in India, which is a foreign-controlled company, will require approval from National Biodiversity Authority for specified activities. Under the Bill, a foreign-controlled company means a foreign company as per the Companies Act, 2013, which is under the control of a foreigner. The Companies Act defines a foreign company as a company or body corporate ‘incorporated outside India’. The Committee recommended that a foreign-controlled company should instead be defined as a company incorporated or registered in India, which is controlled by a foreigner as per the Companies Act.
- **Promotion of biological resources:** The Act provides that funds set up under it will be utilised for specified purposes including the promotion and conservation of biological resources. It also requires the central government to formulate national strategies and programmes for the promotion, conservation, and sustainable use of biodiversity. The Bill removes reference to promotion of biological resources in the above cases. The Committee recommended that the Bill should retain provisions for the promotion of biological resources at all such places. It further recommended that the central government should formulate national strategies and plans in consultation with the state governments and union territories.
- **Preservation of habitats:** The Act requires the local bodies to set up a Biodiversity Management Committee within its area for carrying out certain functions. These include: (i) promoting conservation and sustainable use of biodiversity including preservation of habitats, conservation of folk varieties, breeds, land races, and microorganisms, and (ii) documentation of biodiversity. The Bill removes the reference to preservation of habitats. The Committee recommended retaining the provision for preservation of habitats. It also recommended to include the conservation of living things in water bodies among the functions.
- **Penalties:** The Bill decriminalises offences under the Act and makes them punishable with a penalty between one lakh rupees and Rs 50 lakh. Where damage exceeds the amount of penalty, the penalty will be commensurate with the damage caused. Continuing contravention may attract an additional penalty of up to one crore rupees. The Committee observed that the penalty structure should not be too meagre, which may enable violators to escape with a little amount of penalty. It recommended that the penalty should be proportionate to: (i) gains obtained by entities, and (ii) the size of the company.

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