



The Biodiversity Act Simply Explained

Let me explain it for you!

Let's imagine a pharmaceutical company that is in the process of developing a revolutionary new medicine. This drug has the potential to help millions of people suffering from Alzheimer's disease, a disorder that destroys memory and other important mental capabilities in the elderly. However, the medicine is not based on synthetic chemicals manufactured in a lab. It is based on the 'Brahmi' herb; one that we have all seen in our backyards.

Brahmi is a household name in India, famous for its properties to treat neurological disorders. It has been used in traditional system of Ayurveda for thousands of years as a memory booster and a brain sharpener.

India holds a sovereign right over Brahmi found in the country, as well as over the traditional knowledge associated with it. The *sovereign right* allows a country to *fully assert* its exclusive entitlement over the natural wealth and resources found within its boundaries. *This right* of a country was recognised in 1992, when the United Nations adopted the C-B-D, Convention on Biological Diversity. The CBD is a landmark agreement that has been adopted by 196 countries including India. It addresses *all* aspects of biological diversity i.e., genetic resources, species diversity and ecosystems *in their entirety*. It also introduced the principle of fair and equitable benefit sharing for access to and use of genetic resources.

In 2002, the Parliament of India enacted the Biological Diversity Act. In line with the goals of CBD, India's Biodiversity Act has three objectives:

- the conservation of biological diversity
- the sustainable use of its components
- the fair and equitable sharing of the benefits arising out of the utilization of biological resources, or in short Access and Benefit-sharing, or even shorter: A-B-S.

The Biodiversity Act has established a three-tier structure for implementation. The N-B-A, the National Biodiversity Authority is responsible for all matters at the national-level. The S-B-Bs, the State Biodiversity Boards are responsible at the state-level. *And* the B-M-Cs, the Biodiversity Management Committees have been established at every local body. The BMC committee consists of 7 members who possess knowledge of biodiversity and they are registered in the local voter's list. The Act recognises local communities as custodians of biological resources, as well as the traditional knowledge and practices associated with them.

How does this Act work in practice?



Anyone who wants to use biological resources from India needs to obtain due permits. For example, if a company wants to use Brahmi leaves, it must seek permission from the NBA, or the SBBs depending on its legal status. These permissions will be in form of a benefit-sharing agreement or an ABS agreement. The BMC of the region from where the resources have been collected, will receive 95% of this ABS amount for conserving and ensuring sustainable use of biological resources within its area.

To summarize: Individuals or companies such as pharmaceuticals, cosmetics, nutritional supplements, and others who want to use species of plants, animals or even microorganisms or the traditional knowledge of the peoples of India – all require prior permission. Only *certain* biological resources listed under the category of “normally traded as commodities” are exempted from this rule.

India’s Biodiversity Act lays the foundation for sustainable use of biodiversity & protection of traditional knowledge, to meet the *needs and aspirations* of present and future generations. It *does not* stop companies or researchers from using biological resources, rather it provides legal certainty through a PIC, a Prior Informed Consent and the MAT, the Mutually Agreed Terms. There are strict penalties for illegal procurement. The National Biodiversity Authority and the State Biodiversity Boards are authorized to enforce this process at their respective levels. The Forest Department has *an important role* to play in the implementation of the Biodiversity Act. Forest officers, not below the rank of range officers, are authorised to file complaints under the Act.

India has been implementing the Biodiversity Act to strengthen its conservation efforts and to provide fair and equitable benefits to the local communities, in return for any biological resources or traditional knowledge provided to individuals or companies. The effective implementation of the Biodiversity Act will ultimately lead to the conservation and sustainable use of biological treasures and traditional wisdom of India.