Holes in Biodiversity Bill

What is the issue?

The provisions of the Biological Diversity (Amendment) Bill, 2021 that is currently being reviewed by a Joint Parliamentary Committee (JPC) has attracted wide criticisms.

What is the Biological Diversity Act, 2002 about ?

- The Biological Diversity Act, 2002 was framed to give effect to the United Nations Convention on Biological Diversity (CBD), 1992.
- The UNCBD strives for sustainable, fair and equitable sharing of benefits arising out of the utilisation of biological resources and associated traditional knowledge.
- To do this, it formulates a three-tier structure consisting of a
    1. National Biodiversity Authority (NBA) at the national level
    2. State Biodiversity Boards (SBBs) at the State level
    3. Biodiversity Management Committees (BMCs) at local body levels
- The Act provides for sharing of benefits with conservers of biodiversity and holders and creators of associated knowledge.

Under CBD, two protocols - Cartagena Protocol on biosafety (2003), and Nagoya Protocol on access and benefit sharing (2014) have been adopted and ratified by India.

What do the amendments in the Bill deal with?

- The Bill amends the Biological Diversity Act, 2002 to simplify compliance requirements for domestic companies.
- Users of codified traditional knowledge and AYUSH practitioners will be exempted from sharing benefits with local communities.
- The Bill removes research and bio-survey activities from the purview of benefit sharing requirements.
- Benefit sharing will be based on terms agreed between the user and the local management committee represented by the National Authority.
- The Bill decriminalises all offences under the Act.

What are the shortcomings in the Bill?

- **Definition-** The term “codified traditional knowledge” has not been defined.
- **Role of local communities-** The Bill removes the direct role of local communities in

determining benefit sharing provisions.

- **Bio-piracy**- Environmentalist organisations have said that the amendments were made to solely benefit the AYUSH Ministry and would pave the way for bio piracy.
- **Artificial distinction**- Creating an artificial distinction between a registered AYUSH practitioner and a company pave the way for potential abuse of the law.
- **Dilution of powers of NBA**- The clause appointing 16 ex-officio officers of the Centre was aimed at diluting the authority of the National Biodiversity Authority (NBA).
- The provision that requires companies to seek the approval of the NBA only at the time of commercialisation, and not when applying for a patent was of concern.
- **Decriminalisation of offences**- The Bill also decriminalised violations, such as bio-piracy and made them civil offences, and this defeated the Act's deterrent powers.
- **Data availability**- There was no data available except for a few States on the money received from companies and traders for access and benefit-sharing from use of traditional knowledge and resources.
- **Unutilised funds**- The law says that if the information was unavailable, then funds ought to be spent on conservation in the region from where the knowledge-bioresources come but as of now, the funds were lying unutilized.
- **Payment of companies**- As per law, Indian pharmaceutical companies are required to pay between 3-5% on the extracted bioresources or between 0.01-0.05% on the annual gross ex-factory sales but companies have resisted paying.

References

1. https://www.thehindu.com/sci-tech/energy-and-environment/explained-holes-in-biodiversity-bill/article65442328.ece?homepage=true
2. https://prsindia.org/billtrack/the-biological-diversity-amendment-bill-2021#:~:text=The%20Bill%20amends%20the%20Biological,sharing%20benefits%20with%20local%20communities.

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