

**INDIA'S LEGISLATIVE PROPOSITION TOWARDS ENVIRONMENTAL REGULATIONS:  
CRITICAL ANALYSIS OF THE BIOLOGICAL DIVERSITY (AMENDMENT) BILL, 2022**

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**ABSTRACT**

The research paper delves into the evolution and impact of global environmental legislations, tracing back to the seminal United Nations Conference on the Human Environment in 1972. Focusing on India's response, the paper examines constitutional amendments, parliamentary enactments, and landmark legal cases that have shaped the country's environmental legal landscape. Highlighting the significance of Article 48A and Article 253 in India's Constitution, the paper discusses the multifaceted role of the government, state entities, and citizens in protecting and improving the environment. It explores the expansive interpretation of the right to life, encompassing a dignified existence, social justice, and humane working conditions.

The study then scrutinizes the Biological Diversity (Amendment) Bill, 2022, now the 'Biological Diversity Act, 2023.' It critically evaluates the bill's provisions, including exemptions for traditional knowledge users, benefit-sharing terms, and the shift from criminal sanctions to financial penalties. Concerns are raised about potential loopholes, lack of community involvement, and deviations from international standards, necessitating a nuanced examination. Moving to the hypothesis and research question, the paper assesses India's response to climate change and the role of the National Biodiversity (Amendment) Act, 2021. It questions the balance between economic development and environmental preservation, especially in light of the criticisms surrounding the Biological Diversity Act, 2023. The paper explores the enforcement challenges in India's environmental laws and draws comparisons with the Japanese model, advocating for a more effective and accountable regulatory framework.

The research objective focuses on minimizing political interference in regulatory bodies and promoting transparent, inclusive consultations. The recommendations emphasize decentralization, expertise-driven decision-making, transparency, and inclusivity as key elements for a robust environmental regulatory framework in India.

In conclusion, the paper underscores the need for a comprehensive review of environmental regulations in India to address complexities, enhance clarity, and foster sustainable practices. It also highlights the critical role of regulatory bodies insulated from political pressures, ensuring a balance between environmental conservation and economic development.

**KEYWORDS** – ENVIRONMENT PROTECTION, STOCKHOLM CONVENTION, LEGISLATIVE FRAMEWORK, BIOLOGICAL DIVERSITY (AMENDMENT) BILL, 2022, CLIMATE CHANGE, NATIONAL BIODIVERSITY (AMENDMENT) ACT, 2021, POLITICAL INTERFERENCE, REGULATORY BODIES, TRANSPARENT CONSULTATIONS, INCLUSIVE DECISION-MAKING

## ENVIRONMENT LEGISLATIONS

Globally, the wakeup call for environment protection commenced back in 1972, with the inception of the United Nations Conference on the Human Environment held in Stockholm, Sweden. The main object behind the congregation of the convention was to originate a cornerstone that would cater to the problems of the human environment. In a succinct, the convention endorsed a comprehensive environmental framework comprising a declaration of conservation principles, a detailed resolution for financial and institutional support, and an action plan with 109 recommendations, including crisis preparedness through Earth watch. The Stockholm declaration concluded with the bifurcation to devise two parts<sup>1193</sup>, the first part respectively stating the seven truths about the man and his connections with the environment. In a brief, the convention adopted total 26 principles, which mainly emphasized upon such:

- Declaration of environmental principles encompassing rights and responsibilities, protection of natural resources, and wildlife conservation.
- Resolution outlining financial and institutional frameworks for planned human settlement, pollution management, and social-economic development.
- Action plan with 109 recommendations, covering rational resource management, pollution control, cooperation between nations, and emphasis on education and scientific research for environmental protection.

In addition to the Stockholm convention, certain other acts paved their way in furtherance of the attestation and proclamation held set out by the Stockholm Convention, these were such as, the Convention on International Trade in Endangered Species of Wild Flora and Fauna, 1973. In consonance to that, the Parliament of India also initiated certain other acts such as,

Air (Prevention and Control of Pollution) Act 1981, Forest Conservation Act, 1980, and the like.

Pertaining to the ordinance of Environment law, the Parliament inserted two Articles, i.e., Article 48A<sup>1194</sup>, Protection and improvement of environment and safeguarding of forests and wild life, "The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country." It was one of the foremost upshots of the Stockholm conference, that prompted the Government to enact 42<sup>nd</sup> amendment act<sup>1195</sup> in 1976, and added Article 48A to the Constitution of India. Other such parliamentary enactments were such:

- Article 51(g)<sup>1196</sup>: "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures."
- Article 253<sup>1197</sup>: Article 253 of the Indian Constitution bestows upon the Parliament the authority to legislate on subjects related to the implementation of international agreements, treaties, or conventions, whether in part or entirely. In simpler terms, this constitutional provision empowers the Parliament to pass laws concerning the preservation and protection of the natural environment, as exemplified by its use following the 1972 Stockholm Conference. The enactment of the Air Act and the Environment Act under the purview of Article 253 serves as a testament to this interpretation, as these laws were specifically crafted to give effect to the commitments and decisions made during the Stockholm Conference, marking a significant step in India's environmental legislative landscape.

There have been prominent cases which stiffens and upholds the robust environmental regulations and legislations set out by the

<sup>1193</sup> Report of the United Nations Conference on the Human Environment 45-49, (UN Library, UN/SA Collection) (1995)

<sup>1194</sup> INDIA CONST. art. 48, cl. A.

<sup>1195</sup> The 42<sup>nd</sup> Amendment Act, 1976, Acts of Parliament, 1976 (India)

<sup>1196</sup> INDIA CONST. art. 51, cl. G.

<sup>1197</sup> INDIA CONST. art. 253.

Parliament. Some of those distinguished cases are these:

- Sher Singh V. State of Himachal Pradesh<sup>1198</sup>: In this case, it was held that the citizens of India are endowed with the fundamental right to a healthy, clean, and dignified environment. The Constitution of India, as stipulated in Article 48A, imposes a constitutional duty on the State to protect and enhance the environment and ensure the safeguarding of the nation's forests and wildlife. The 42nd Amendment to the Constitution introduced Article 51A, emphasizing the responsibility of citizens to protect and improve the natural environment, including forests, lakes, rivers, wildlife, and to foster compassion for all living creatures.

It was further stated that this legislative intent and the ethos behind Articles 48A and 51A(g) are encapsulated in the definition of 'environment' within the Environment (Protection) Act of 1986. The Indian legislature has further bolstered environmental protection through various laws, such as the Air (Prevention and Control of Pollution) Act of 1981, the Water (Prevention and Control of Pollution) Act of 1974, the Wildlife (Protection) Act of 1972, and others. These legislations expand the legal framework for the protection and enhancement of the environment. Although the Constitution's Part III, which deals with Fundamental Rights, does not explicitly dedicate an article to the environment, the interpretation of Article 21 by the Indian Supreme Court has evolved to encompass the right to a clean and dignified environment.

Furthermore, there is a substantial responsibility on the Central Government, State Governments, and other entities under Article 48A of the Constitution, which mandates the protection and improvement of the environment. International instruments, like Article 25(2) of the Universal Declaration of Human Rights, ensure the right to a standard of living

adequate for health and well-being, including housing and medical care.

The term 'life' enshrined in Article 21 of the Constitution signifies more than mere existence; it includes the right to livelihood, an improved standard of living, hygienic workplace conditions, and leisure. This expanded interpretation of the right to life encompasses the traditions and cultural heritage of individuals, making life not just a matter of survival but a pursuit of a meaningful and dignified existence. In the case of Consumer Education & Research Centre, the Court reinforced these principles, affirming the right to medical aid, health, social justice, and humane working conditions as fundamental components of the right to life. This highlights the significance of social security and just working conditions for workers, ultimately contributing to their overall well-being, both physically and mentally. The Court invoked several articles of the Constitution, including Article 21, 39(e), 41, 43, and 48-A, to underscore that social security, humane working conditions, and the opportunity for workers to lead a fulfilling life are integral to their meaningful right to life.

- Small Hydro Power Developers' ... V. Transmission Corporation of A.P.<sup>1199</sup>: The mentioned decision itself establishes the principle that the government can revoke what it has granted, except when the doctrine of promissory estoppel is applicable. It also underscores that promissory estoppel is rooted in equity and public interest. Consequently, the state possesses the discretion to modify its policies, and the courts should not interfere unless the policy change is arbitrary, unreasonable, or unfair.

In the current case, the State Government has not altered or withdrawn its policy of promoting energy generation from renewable sources. The policy directives outlined in Government Orders (GOMs) are consistent with the provisions of the Electricity Act, 2003, and Article 48A of the

<sup>1198</sup> Sher Singh V. State of Himachal Pradesh, 2013 (CWPIIL No. 15 of 2010) (India).

<sup>1199</sup> Small Hydro Power Developers' ... V. Transmission Corporation of A.P. 2006 SCC Online APTEL 51 (India).



Constitution. These policies align with the National Electricity Policy's emphasis on non-conventional energy sources to bolster power generation and promote green energy production. Furthermore, the amendments to the Constitution in 1976 introduced Articles 48A and 51A(g), emphasizing environmental protection and citizens' duty to enhance the natural environment. The Electricity Act, the National Electricity Policy, the Ministry of New and Renewable Energy (MNES) policy, and GOMs 93 all echo this environmental concern due to the adverse effects of pollution and global warming. Therefore, measures to incentivize power generation from renewable sources are essential to conserve the environment.

However, reopening the Power Purchase Agreements (PPAs) to impose higher wheeling charges, as compared to G.O.Ms. No. 93, would impede the generation of renewable energy. Power plants that utilize renewable sources entail significant investments and have lengthy development periods. It is also recognized that, until technology advancements occur, the cost of power production from renewables may exceed conventional sources. The increase in wheeling charges for renewable energy contradicts the intent of the Electricity Act, the National Electricity Policy, GOMs 93 & 112 of the Andhra Pradesh Government, the MNES policy, and the objectives of Article 48A of the Constitution.

In the case of Chhattisgarh Biomass Energy Developers Association v. Chhattisgarh S.E.R.C.<sup>1200</sup>, it was emphasized that Power Purchase Agreements adhering to MNES guidelines or policy directives should not be tampered with. The Commission, in this instance, has overlooked the impact of the aforementioned legal precedents, the Electricity Act's preamble and Section 61(h), the National Electricity Policy, MNES guidelines, Article 48A and 51A(g) of the Constitution, and the imperative of environmental preservation

embedded in international treaties and conventions.

In the fullness of time, the refining environment laws are being supervised and guided by environment legal precepts which accentuates on the administration of specific natural resources, along with the preservation of forests and wildlife of the country. The institution of hefty fines and penalties, in addition to the stringent regulations on varying sources of air pollution such as combustion engines, vehicles, industries, stubble burning, etc., are responsible for overseeing these complications arising out of environmental pollution. Despite these stern regulations, there has been reportedly contemporary implementations of certain new regulations and legislations which however contain assorted inadequacies and shortcomings. Moreover, we would discuss one of those prime aberrations and inconsistent legislations, which plummets these reforming regulations and legislations. Furthermore, we would scrutinize the prime explication and flaws concerning the legislation, along with particulars of rectifying the currently legislated act.

#### **BIOLOGICAL DIVERSITY (AMENDMENT) BILL, 2022**

The Biological Diversity (Amendment) Bill, 2022 (now referred to as 'Biological Diversity Act, 2023')<sup>1201</sup> seeks to simplify compliance requirements for domestic companies. The Bill exempts users of codified traditional knowledge and AYUSH practitioners from benefit sharing with local communities. It also excludes research and bio-survey activities from benefit sharing obligations. Benefit sharing terms will be determined through agreements between users and local management committees represented by the National Authority. Additionally, the Bill decriminalizes all offenses specified in the Act. Though there has been certain contentions and complications with the act which needs to be administered and rectified, that is, the Bill lacks a definition for "codified traditional knowledge," potentially

<sup>1200</sup> Appellate Tribunal for Electricity (Principal Bench, Delhi), Chhattisgarh Biomass Developers Association V. Chhattisgarh State Electricity Regulatory Board, 5.4 11.5, (April 29, 2013), (India).

<sup>1201</sup> The Biological Diversity (Amendment) Act, 2023, No. 10, Acts of Parliament, 2023 (India).

excluding various local traditional knowledge from benefit sharing obligations. It also eliminates the direct involvement of local communities in establishing benefit sharing terms. Instead of criminalizing offenses, the Bill introduces a variety of penalties and grants government officials the authority to investigate and impose penalties, raising concerns about the extent of discretion given to them. The proposed amendment to the Biological Diversity Act, 2002 aims to: (1) promote traditional Indian medicine and the cultivation of medicinal plants, (2) expedite research, patent applications, and technology transfer, (3) eliminate criminal sanctions, and (4) attract foreign investments in the sector. Additionally, references to the Nagoya Protocol are incorporated into the Act.<sup>1202</sup> In a brief, there have been certain key issues related to the priorly proposed bill, some of them being:

- The Biological Diversity (Amendment) Bill, 2020 introduces several changes to the 2002 Act, raising concerns and highlighting areas of ambiguity. One such area pertains to the exemption for "codified traditional knowledge." While the Bill excludes users of "codified traditional knowledge" from benefit-sharing obligations, the term itself remains undefined. The lack of a clear definition creates a potential loophole, as various interpretations could exempt a broad spectrum of traditional knowledge from benefit-sharing provisions.<sup>1203</sup>
- The World Intellectual Property Organization (WIPO) defines codified traditional knowledge as knowledge organized in a systematic and structured manner. This includes knowledge classified, categorized, and ordered to facilitate its use. Given that the 2002 Act mandates local bodies in India to establish Biodiversity Management Committees, responsible for preparing the People's

Biodiversity Register, this broad definition could encompass nearly all local traditional knowledge. Therefore, if WIPO's definition is applied, it would exempt most local traditional knowledge from benefit-sharing requirements.<sup>1204</sup>

- Another key concern is the shift away from direct involvement of local communities in determining benefit-sharing terms. The 2002 Act stipulates that the National Biodiversity Authority (NBA) should approve activities while considering mutually agreed terms between the applicant, concerned local bodies, and benefit claimers. However, the Bill amends this to require approval based on mutually agreed terms between the applicant and the concerned Biodiversity Management Committee, represented by the NBA. This change sidelines benefit claimers and local communities, excluding them from directly participating in setting terms and conditions.<sup>1205</sup>
- Additionally, the Bill lacks provisions for obtaining prior informed consent from local and indigenous communities. This contrasts with the Nagoya Protocol, which obligates signatory countries to ensure prior informed consent and involvement of local communities for access to genetic resources and traditional knowledge. The absence of a mechanism for prior informed consent raises questions about the Bill's alignment with international standards.<sup>1206</sup>
- The Bill introduces a fundamental shift in penalties for offenses under the 2002 Act. While the existing Act imposes imprisonment of up to five years or fines for offenses, the Bill decriminalizes these offenses and replaces imprisonment with financial penalties. The penalty range spans from one lakh rupees to fifty lakh rupees, with an additional penalty of up to one crore rupees for continuing contraventions. These penalties will be

<sup>1202</sup> Ministry of Environment, Forests and Climate Change, Government of India, The Biological Diversity (Amendment) Act, 2021, available at <https://prsindia.org/billtrack/the-biological-diversity-amendment-bill-2021>, last seen on November 13, 2023.

<sup>1203</sup> Why is the Biological Diversity Bill facing opposition, The Hindu, available at <https://www.thehindu.com/sci-tech/energy-and-environment/explained-why-is-the-biological-diversity-bill-facing-opposition/article67154114.ece>, last seen on August 04, 2023.

<sup>1204</sup> The Biological Diversity (Amendment) Bill, 2021 (passed by Rajya Sabha, 01/08/2023).

<sup>1205</sup> The Biological Diversity (Amendment) Act, 2023, *supra* note 9.

<sup>1206</sup> Kapil Kumar & Dr Deepa K. Tiku, Decoding the Biological Diversity (Amendment) Act, 2023, BioSpectrum (06/08/2023), available at [https://www.biospectrumindia.com/views/17/23669/decoding-the-biological-diversity-amendment-act-2023.html#:~:text=During%20the%20Monsoon%20Session%2C%202023,iii\)%20facilitate%20fast%20tracking%20of](https://www.biospectrumindia.com/views/17/23669/decoding-the-biological-diversity-amendment-act-2023.html#:~:text=During%20the%20Monsoon%20Session%2C%202023,iii)%20facilitate%20fast%20tracking%20of), last seen on 13/11/2023.

determined by an adjudicating officer, a government official of a certain rank. The wide range of penalties, which is not differentiated based on the type of offense, raises questions about the appropriateness of granting such discretion to government officials.<sup>1207</sup>

▪ Inconsistencies and omissions in the Bill further compound these concerns. For example, the Bill's handling of activities under Section 7 remains unclear—whether they merely require prior intimation or approval from the State Biodiversity Board (SBB). Another inconsistency arises in the definition of "foreign-controlled company," which appears to contradict the Bill's requirements. Additionally, the application process for NBA approval has not been clearly specified in certain cases.<sup>1208</sup>

▪ While the Bill seeks to remove references to "Bio-utilisation," some references remain in Section 3, causing confusion and inconsistency in the Act.<sup>1209</sup>

▪ Addressing these ambiguities, inconsistencies, and omissions is essential to ensure that the Biological Diversity (Amendment) Bill, 2020 aligns with the objectives of biodiversity conservation and benefit-sharing, both at the national and international levels.

#### **HYPOTHESIS & RESEARCH QUESTION**

Hypothesis: The inadequacy and weaknesses in India's environmental laws, highlighted by the scrutiny of the National Biodiversity (Amendment) Act, 2021, are potentially rooted in the absence of stringent and well-structured preservation laws, coupled with deficiencies in the climate litigation procedure. This suggests that a comprehensive resolution and review of environmental regulations are imperative for achieving clarity, effectiveness, and stakeholder compliance, ultimately contributing to sustainable environmental practices in the country.

India's response to climate change, though marked by efforts, faces scrutiny over the adequacy of its policies and actions given the escalating climate challenges. Notably, the emphasis on expediting project clearances has at times eclipsed more comprehensive environmental considerations like conservation and sustainable resource management. The introduction of the National Biodiversity (Amendment) Act, 2021, adds another layer to this discourse. Observers express concern that the legislation leans towards minimizing regulations and prioritizing corporate interests, sparking apprehensions about potential adverse impacts on biodiversity and custodians of traditional knowledge. The prevailing narrative questions whether the amendment strikes the right balance between economic development and environmental preservation, underscoring the need for a nuanced and holistic approach in India's response to the intricate challenges posed by climate change. With the regulation of more than 200 Central and State legislatures on Environment law, there has been certainly accumulating complications in enforcement. Even on the limited powers vested to the Pollution Control Boards, they lack powers to punish the violators. Consequently, the environment protection laws fail to enforce the appropriate results because of poor efficiency and substandard enforcement. The Biological Diversity (Amendment) Act, 2023 decriminalises environment law violations, and presently, the barely bounded way of enacting the enforcement is by way of Public Interest Litigation. Contrasting it with the Japanese model, the Environment laws there works at national and local level in order to ordain environment preservation. Actions like Article 20<sup>1210</sup>, makes the industry accountable for ensuring assessment survey and scrutiny for any business job. The Businesses that do not follow the prescribed code would be penalised, but not just with fine or a meagre charge,

<sup>1207</sup> Puja Das, Lok Sabha Passed Biological Diversity (Amendment) Bill, Mint (26/07/2023), available at <https://www.livemint.com/news/india/lok-sabha-passed-biological-diversity-amendment-bill-11690323568853.html>, last seen on 26/07/2023.

<sup>1208</sup> Kapil Kumar & Dr Deepa K Tikku, *supra* note 14.

<sup>1209</sup> The Biological Diversity (Amendment) Bill, 2021, *supra* note 12.

<sup>1210</sup> Kankyo Kihonho (The Fundamental Act for Environment), Law No. 91 of 1993, at arts. 11-12.



ideally Japan prefers the use of ‘soft power’ rather than ‘hard power’.<sup>1211</sup> Currently, the concept of Environment litigation is taking an expedition towards speedy disposals and penalty imposition.<sup>1212</sup>

However, the question with the Environment regulations in India is whether the dearth of stringent and modulated environment preservation laws along with the infirmity of climate litigation procedure is the foundation of weak environment laws in India. The environmental laws and legislative framework in India are frequently criticized for their complexity, marked by ambiguous provisions and perceived excessive government interference.

This raises the crucial question of whether there is an imperative need for a comprehensive resolution and review of environmental regulations in the country. Addressing these complexities and streamlining the regulatory landscape could potentially enhance clarity, effectiveness, and stakeholder compliance in the pursuit of sustainable environmental practices. The recently enacted National Biodiversity (Amendment) Act, 2021 has come under scrutiny due to various contentious provisions, posing questions about its inherent issues. This prompts an inquiry into whether the challenges with this legislation are directly or indirectly linked to political influences at the national level and deficiencies in enforcement mechanisms. Analysing these connections is vital for understanding the broader dynamics influencing environmental policymaking and its practical implications on biodiversity conservation and traditional knowledge holders in India.

#### RESEARCH OBJECTIVE

<sup>1211</sup> Japan – Trends and Developments, Chambers and Partners, available at <https://practiceguides.chambers.com/practice-guides/environmental-law-2022/japan/trends-and-developments#:~:text=This%20means%20that%20for%20the,to%20human%20life%20and%20health.>, last seen on October 21, 2022.

<sup>1212</sup> Homush6 Minji Kyoku Sanjikan Shitsu, Minji Sosha Tetsuzuki Ni Kansuru Kaisei Shian [The Tentative Draft for Civil Procedure Reform], BESSATSU NBL No. 27, HosoKu SETSUMEI, at 1 (1994).

#### 1. Minimizing Political Interference in Regulatory Bodies:

The assertion to reduce political interference in independent regulatory bodies underscores the importance of insulating these entities from political pressures. To enhance their autonomy, decision-making powers should be decentralized and delegated to boards comprising experts in the respective fields. By doing so, regulatory bodies can operate independently, ensuring that their actions and decisions are guided by technical expertise rather than political motivations. Establishing a dedicated body of experts, akin to civil services, further reinforces the need for a professional, non-partisan approach in regulatory affairs.

##### Explanation:

Independent regulatory bodies play a critical role in overseeing sectors such as environment, industry, and public services. Political interference can compromise the impartiality and effectiveness of these bodies. Delegating decision-making powers to boards of experts ensures that decisions are informed by technical knowledge, best practices, and a commitment to the regulatory objectives. The analogy with civil services implies a need for specialized, trained professionals who can navigate complex regulatory landscapes without succumbing to political pressures.

#### 2. Transparent and Inclusive Consultations:

The call for transparent and inclusive consultations emphasizes the necessity of involving a diverse range of stakeholders in the decision-making processes of regulatory bodies. This includes local communities, indigenous peoples, environmentalists, scientists, and representatives from the industry. Transparent consultations ensure that information is accessible to the public, promoting accountability, and fostering trust. Inclusivity guarantees that the regulatory decisions consider a broad spectrum of perspectives, preventing the undue influence of any single interest group.

Explanation:

Regulatory decisions often have far-reaching consequences on various stakeholders. By embracing transparency, regulatory bodies can share information about their processes, findings, and proposed actions with the public. This openness enhances accountability and allows affected parties to understand and critique decisions. Inclusive consultations with a diverse set of stakeholders ensure that regulatory decisions reflect a comprehensive understanding of the issues at hand. This includes perspectives from local communities directly impacted by regulatory measures, indigenous groups with unique environmental and cultural concerns, environmentalists advocating for sustainability, scientists providing evidence-based insights, and industry representatives contributing practical insights.

In essence, both recommendations advocate for a regulatory framework characterized by expertise, independence, transparency, and inclusivity. Such an approach helps strike a balance between regulatory efficiency and responsiveness to the needs and concerns of the broader society.

### CONCLUSION

In conclusion, the trajectory of India's environmental regulations has evolved significantly, responding to the changing dynamics of its economy and global environmental concerns. The journey from the enactment of pivotal laws such as the Water Act of 1974, the Air Act of 1981, to the recent proposed amendments like the Biological Diversity (Amendment) Bill, 2022, signifies the nation's commitment to balancing economic growth with environmental sustainability.

The alignment of projects and policies with Sustainable Development Goals (SDGs) reflects a conscious effort to integrate environmental, social, and governance (ESG) criteria into corporate reporting, thereby elevating environmental compliance to a legal obligation.

However, the push for streamlined environmental clearance procedures, as seen in the draft Environment Impact Assessment (EIA) Notification, and the proposal to consolidate existing acts into a single law, necessitate cautious consideration.

The amendment to the Biological Diversity Act raises crucial concerns, notably regarding 'codified traditional knowledge,' introducing uncertainties and potential exemptions in benefit-sharing provisions. The shift in the decision-making process from local bodies to Biodiversity Management Committees and the National Biodiversity Authority (NBA) has implications for transparency and local involvement.

While recognizing the intent behind the new Biological Diversity (Amendment) Bill, including simplified compliance requirements and the decriminalization of offenses, it is imperative to address the ambiguities surrounding codified traditional knowledge. The lack of clear definitions in the bill, echoed in global conventions like the Nagoya Protocol, underscores the need for precision in legal language.

The dubiety surrounding 'codified traditional knowledge' potentially compromises the essence of benefit-sharing provisions, raising questions about the effectiveness of the proposed amendments. The discretion bestowed upon government officials in adjudicating penalties adds another layer of complexity, urging a careful examination of the legislative framework.

In navigating these complexities, the focus should not solely rest on consolidating laws but on ensuring their effective and transparent execution. The emphasis must be on upholding the original intent of environmental protection, as envisioned in constitutional provisions like Article 48A, Article 51A(g), and Article 21(9).

The path forward involves a nuanced approach that balances regulatory efficiency with environmental conservation. Instead of





wholesale overhauls, targeted amendments that enhance transparency and address specific challenges are recommended. It is imperative to learn from past legislative experiences and leverage global conventions while ensuring that India's environmental laws align with international standards without compromising local interests.

In essence, the evolution of India's environmental regulations reflects a journey of balancing economic progress with ecological responsibility. As the nation continues to grow, the challenge lies in crafting regulations that not only facilitate development but also safeguard the intricate web of biodiversity and traditional knowledge integral to India's rich environmental tapestry.

