



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 5 AND ISSUE 6 OF 2025

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 5 and Issue 6 of 2025 (Access Full Issue on – <https://ijlr.iledu.in/volume-5-and-issue-6-of-2025/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

BIODIVERSITY ACT AND ITS ALIGNMENT WITH INTERNATIONAL GUIDELINES

AUTHOR – AAISHA SHABNAM, STUDENT AT LAW COLLEGE DEHRADUN

BEST CITATION – AAISHA SHABNAM, BIODIVERSITY ACT AND ITS ALIGNMENT WITH INTERNATIONAL GUIDELINES, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (6) OF 2025, PG. 815-817, APIS – 3920 – 0001 & ISSN – 2583-2344

Abstract

The global decline in biodiversity has necessitated both national and international efforts to conserve and sustainably manage biological resources. In this context, national legislation such as the Biodiversity Act (with reference to India's Biological Diversity Act, 2002) plays a critical role in fulfilling a country's commitments under various international treaties. This article examines the key provisions of the Biodiversity Act, evaluates its alignment with international conventions such as the Convention on Biological Diversity (CBD), and explores its effectiveness in promoting conservation, sustainable use, and equitable benefit-sharing. The article also highlights areas where national legislation could be strengthened to better fulfill international environmental obligations.

1. Introduction

Biodiversity, the variety of life on Earth, underpins ecosystem services that are vital for human well-being. The rapid loss of biodiversity due to anthropogenic pressures such as habitat destruction, pollution, climate change, and overexploitation has prompted both global and national legal responses. One of the cornerstone international frameworks is the Convention on Biological Diversity (CBD), adopted at the 1992 Earth Summit in Rio de Janeiro. Following its ratification, many countries enacted domestic laws to implement its provisions.

India, as a party to the CBD, enacted the Biological Diversity Act, 2002, commonly referred to as the Biodiversity Act. This legislation aims to conserve biodiversity, promote its sustainable use, and ensure fair and equitable sharing of benefits arising from the use of genetic resources. This article provides a critical overview of the Act and assesses how well it integrates international biodiversity principles. There are two biodiversity conservation in this study which are In Situ Conservation and second is Ex Situ Conservation.

KEYWORDS

Biodiversity Act, Nagoya Protocol, Biodiversity conservation, Sustainable use, Equitable benefit-sharing, Access to genetic resources, Traditional knowledge (TK), Biological resources, In situ conservation, Environmental legislation, Capacity building.

2. Overview of the Biodiversity Act

The Biological Diversity Act, 2002, was enacted to give effect to India's obligations under the CBD. It provides for:

- Conservation of biological diversity
- Sustainable use of its components
- Fair and equitable sharing of benefits

The Act established a three-tiered institutional structure:

1. National Biodiversity Authority (NBA): Advises the central government, regulates access to biological resources and knowledge, and approves applications from foreign entities.
2. State Biodiversity Boards (SBBs): Regulate activities within the state concerning biodiversity use.

3. Biodiversity Management Committees (BMCs): Established at the local level to promote conservation and prepare People's Biodiversity Registers (PBRs). Key provisions include:

- Regulation of access to biological resources (Section 3-6)
- Benefit-sharing mechanisms (Section 21)
- Conservation measures (Section 36)
- Local knowledge protection

The Act emphasizes the decentralized and participatory governance of biodiversity resources, with a strong role for local communities.

3. International Frameworks and Guidelines

3.1 Convention on Biological Diversity (CBD)
The CBD is the most comprehensive global agreement on biodiversity. It has three core objectives:

- Conservation of biological diversity
- Sustainable use of its components
- Fair and equitable sharing of benefits

The CBD encourages member states to develop national strategies and laws to protect biodiversity and regulate access to genetic resources.

3.2 Nagoya Protocol
The Nagoya Protocol on Access and Benefit-Sharing (ABS) supplements the CBD and provides a legal framework for ensuring fair sharing of benefits. India ratified this protocol in 2012 and incorporated its principles in the Biodiversity Act, especially through benefit-sharing mechanisms.

3.3 Other Relevant Instruments

- Cartagena Protocol on Biosafety
- Global Strategy for Plant Conservation
- UN Convention to Combat Desertification (UNCCD)

- International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)

Each of these provides complementary guidelines that influence national biodiversity laws.

4. Comparative Analysis: Biodiversity Act vs. International Guidelines

Aspect | Biodiversity Act (India) | CBD/Nagoya Protocol

Access to Genetic Resources | Regulated through NBA; foreign entities need prior approval | Prior informed consent and mutually agreed terms required

Benefit Sharing | Mandatory benefit-sharing arrangements through NBA | Central principle of the Nagoya Protocol

Protection of TK | Recognizes traditional knowledge and community rights | Emphasizes respect for Indigenous and local communities

Public Participation | BMCs involve local communities | Encourages participation of all stakeholders

Monitoring and Enforcement | Lacks strong enforcement provisions | Recommends compliance mechanisms but leaves specifics to states

Ex-situ and In-situ Conservation | Mentioned but implementation varies widely | Strong emphasis on both approaches

While the Act reflects the spirit of international instruments, implementation and enforcement remain weak points.

5. Challenges and Gaps

Despite a robust legislative framework, several challenges persist:

- Lack of Awareness: Many stakeholders, especially at the local level, are unaware of their rights and responsibilities under the Act.
- Insufficient Implementation: Many BMCs exist only on paper, and People's Biodiversity Registers are often incomplete or missing.
- Limited Benefit Sharing: Cases of successful benefit sharing are rare, with long delays and administrative hurdles.
- Coordination Issues: Weak coordination among the NBA, SBBs, and BMCs.
- Enforcement Deficits: Penalties and legal actions under the Act are rarely pursued.

6. Recommendations

To enhance the effectiveness of the Biodiversity Act and ensure better alignment with international commitments:

1. Strengthen Implementation Mechanisms: Allocate adequate funding and staff for NBA, SBBs, and BMCs.
2. Enhance Legal Clarity and Enforcement: Introduce clear rules for benefit-sharing and stricter penalties for violations.
3. Capacity Building: Train local communities and officials to understand and implement biodiversity policies.
4. Promote Digital Tools: Use technology to maintain and update PBRs.
5. Community Engagement: Incentivize local conservation efforts and respect customary practices.

7. Conclusion

The Biodiversity Act is a landmark legislation that demonstrates India's commitment to biodiversity conservation in line with international standards. While it incorporates the core principles of the CBD and the Nagoya Protocol, effective implementation remains a challenge. Addressing institutional and operational gaps is crucial to making the Act a powerful tool for conserving biodiversity, ensuring sustainable use of resources, and protecting the rights of local communities.

References

- Convention on Biological Diversity (1992)
- Nagoya Protocol on Access and Benefit-sharing (2010)
- The Biological Diversity Act, 2002 (India)
- National Biodiversity Authority reports
- UNEP, 'Global Biodiversity Outlook' (various years)
- FAO, International Treaty on Plant Genetic Resources