**The Biological Diversity (Amendment) Bill, 2021**

(The Hindu, 26 July)

**Why in News**

Recently Lok Sabha passed the Biological Diversity (Amendment) Bill, 2021

**Relevance for UPSC**

* GS Paper – 3, Environment & Ecology

**Background of BDA, 2002**

* In order to ensure the preservation of biological variety, sustainable use of its elements, and fair and equal distribution of the benefits resulting from the use of biological resources and traditional knowledge, the **Biological Diversity Act, 2002 (BDA)**, was adopted.

**Features of BDA, 2002**

* According to the Act, no individual or group may acquire any biological resource present in India for use in study or commerce without first receiving consent from the **National Biodiversity Authority.**
* A **3-tiered framework** was envisioned by the act to control access to biological resources:
  + **National biodiversity authority.**
  + **State Biodiversity Boards**
  + **The local Biodiversity Management Committees (BMCs)**
* All offenses covered by the statute are defined as **cognizable and non-bailable**.
* **Nagoya Protocol** 
  + It is required that indigenous and local populations receive a fair and equitable share of the benefits from the usage of biological resources.
  + An Indian or foreign company or person must first obtain the national biodiversity board's permission before accessing biological resources, such as medicinal plants and related expertise.
  + In order for the corporation to share the financial gain from the **commercial exploitation** of these resources with the locals who are preserving biodiversity in the area, the board may impose a benefit-sharing fee, royalty, or other requirements.

**Features of the Bill**

* **Boosting the Indian Medical System**: It aims to support the "Indian system of medicine" and to speed up the research, patent application, and transfer processes while utilizing the biological resources that are present in India.
  + It aims to enable local communities to use resources, especially those with therapeutic value, like seeds.
  + With this bill, farmers are urged to cultivate more **therapeutic plants**.
  + Without undermining the goals of the United Nations Convention on Biological Diversity, these goals must be met.
* **Decriminalizing several Provisions:** This bill aims to decriminalize several rules governing the chain of custody for biological resources.
  + With India's acceptance of the **Nagoya Protocol** (Access to generic resources and the fair and equitable sharing of benefits emerging from their utilization) in 2012, some amendments were made in accordance with that document.
* **Allowing Foreign Investments:** This also permits foreign funding for biodiversity research. However, it will be necessary to make this investment through Indian businesses engaged in biodiversity research.
  + For overseas organizations, National Biodiversity Authority clearance is required.
* **Practitioners of AYUSH are exempt:** The bill aims to exclude individuals from having to notify state biodiversity boards in advance of utilizing biological resources for specific purposes, including registered AYUSH medical practitioners and those who have access to codified traditional knowledge.
* The Biological Diversity Act, 2002 is amended by the Bill to make **compliance obligations for domestic businesses** simpler.
* Users of traditional knowledge that has been codified and AYUSH practitioners will not be required to share advantages with the neighborhood community.
* The Bill exempts research and bio-survey operations from the need to comply with **benefit-sharing obligations**.
* Benefit distribution shall follow terms negotiated between the user and the local management committee, which is served by the National Authority as its representative.
* All Act offenses are **decriminalized by the Bill**.
* Concerns were voiced that the bill prioritized commercial trade and intellectual property over the act's primary goal of safeguarding biological resources.
* **Threat of Bio-piracy:** "Bio-piracy" would be made possible by exempting AYUSH practitioners from notifying state biodiversity bodies in advance.
* Exploiting naturally occurring genetic or biochemical material for commercial purposes is known as biopiracy.
* **Marginalizing Biodiversity Management Committees (BMCs):** The changes being considered give state biodiversity boards the ability to speak on behalf of BMCs when deciding how benefits will be shared.

**Critical Points and Analysis**

* Undefined is the term "**codified traditional knowledge**." If benefit-sharing requirements are applied broadly, all local traditional knowledge may be exempt.
* The Bill eliminates **local communities'** direct influence over the formulation of benefit-sharing rules.
* The Bill provides for a wide variety of sanctions rather than criminalizing offenses under the Act.
* The Bill also gives officials the authority to conduct investigations and impose punishments. One might wonder if giving government employees this much discretion is appropriate.
* **Inadequate implementation** of the Biodiversity Act was identified in a study by the Centre for Science and Environment (CSE) and Down To Earth magazine.
* With the exception of a few States, no information was available regarding the funds collected from businesses and merchants in exchange for access to and benefit-sharing from the use of traditional knowledge and resources.
* Despite promises, it was unclear if businesses had even paid communities. Only one firm had agreed to pay in the case of the **Irula Cooperative in Tamil Nadu's traditional knowledge holders** of the technique for gathering snake venom used for pharmaceutical products, and even that commitment was not kept.
* State boards informed Down to Earth that the lack of information about the knowledge holders prevented the money from being distributed to communities.

**Way forward**

* **Effective Forest Rights Act (FRA) Implementation:** The government must make an effort to foster trust between its local agencies and the individuals who depend on these woods by treating them like fellow citizens.
* The FRA's weaknesses have already been found; all that is left to do is to work on fixing it.
* **International Treaties Integration:** The Nagoya Protocol's implementation must be compatible with other international agreements because it cannot be carried out in a vacuum.
* Therefore, the legislative, administrative, and policy measures that conflict with one other must be taken into account when integrating the Nagoya Protocol and the **International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).**
* **People's Biodiversity Register (PBR):** PBR should attempt to record local knowledge regarding the status, usage, history, current changes, and forces causing changes in biodiversity resources, as well as local residents' opinions regarding how these resources ought to be managed.
* PBRs can be helpful to protect farmers' or communities' rights to any traditional knowledge they may possess about a specific variety.

**Mains Question**

Q. How is the Government of India protecting traditional knowledge of medicine from patenting by pharmaceutical companies? (2019)