

VAJIRAM & RAVI

Institute for IAS examination

Indian Forest Service - Interview Guidance Program, 2025

Biodiversity Act, FRA

by

Mr.R.KARTHIKEYAN

Forestry & Geography Optional Faculty

VAJIRAM & RAVI

Biological Diversity Act, 2002

Features of BA, 2002, & amendment act 2023

- The Act builds a three-tier system (NBA–SBB–BMC) and a set of access/benefit-sharing (ABS) rules to conserve biodiversity.
 - It benefits directly through regulated access, protection of associated knowledge, and community-led conservation.
1. Regulated access to biological resources (checks over-extraction)
 - Sec 3, 4, 6, 7: Prior approval/intimation required for access, transfer of research results, and IPR based on India's biological resources; foreign entities need NBA approval. This prevents biopiracy/unsustainable removal of flora/fauna components that sustain wildlife habitats.
 2. Access & Benefit Sharing (ABS) creates incentives to conserve
 - Sec 21: NBA ensures equitable benefit sharing (joint IPR, tech transfer, location of R&D/production, venture funds, monetary & non-monetary benefits). Channeling benefits to local bodies/benefit claimers ties livelihoods to in-situ conservation of species and habitats.
 3. Community-level conservation institutions
 - Sec 41: Biodiversity Management Committees (BMCs) in every local body to promote conservation, sustainable use, documentation; can levy charges for access/commerce, creating local stewardship over wildlife and habitats.
 4. Peoples' Biodiversity Registers (PBRs)
 - BMC-prepared PBRs document local resources and traditional knowledge; they serve as a legal record, prevent misappropriation
 5. Local Biodiversity Fund (LBF) for on-ground conservation
 - Secs 42–47: Grants/fees accrue to LBF; used by BMCs for conservation and community development.
 6. State & National oversight
 - NBA/SBB regulate access, impose benefit sharing, and supervise compliance, aligning research, patenting, and commercial use.
 7. Safeguarding associated knowledge & resources
 - Sec 20: Prior approval for transfer of biological resources/knowledge; public notice of approvals. This transparency deters harmful exploitation.
 8. Amendment, 2023

- the amendment keeps conservation and ABS aims; promotes cultivation of medicinal plants, streamlines research.

Access to Biodiversity

Relevant Sections: 3, 4, 5, 6, 7

- Who needs approval:
 - Foreigners, Non-resident Indians, and companies not registered in India.
 - They must get prior approval from the National Biodiversity Authority (NBA) before using any biological resource or related knowledge for research, bio-survey, or commercial use.
- Section 3:
 - No person (as above) can access biological resources or associated knowledge without NBA approval.
- Section 4:
 - No one can transfer results of research on Indian biological resources to foreign persons or companies without NBA approval.
 - (Writing or publishing research papers is allowed.)
- Section 5:
 - Sections 3 and 4 do not apply to transfer of biological resources between Government institutions.
- Section 6:
 - No one can apply for patent or IPR inside or outside India using India's biological resources without prior NBA approval.
 - NBA can fix benefit-sharing or royalty for commercial use.
- Section 7:
 - Indian citizens and Indian-registered companies must inform the State Biodiversity Board (SBB) before using biological resources for commercial use, bio-survey, or bio-utilization.

Transfer of Biological Knowledge

Relevant Section: 20

- Need for prior approval:
 - No one can transfer any biological resource or related knowledge without NBA approval under Section 19.
- Process:

- Apply to NBA for permission.
- NBA can approve with conditions or reject after enquiry.
- NBA must publish a public notice for every approval granted.

Equitable Benefit Sharing for Biological Knowledge

Relevant Section: 21

- When NBA gives approval for using biological resources or knowledge, it ensures fair and equal sharing of benefits between:
 - The applicant,
 - Local communities, and
 - Benefit claimers.

Forms of Benefit Sharing:

- Joint ownership of IPR with NBA.
- Technology transfer.
- Setting up R&D or production units in India.
- Involving Indian scientists and local people.
- Creating venture funds for local benefit.
- Paying monetary or non-monetary compensation.

Distribution of Benefits:

- Money from community resources goes to the National Biodiversity Fund.
- If linked to a specific group or person paid directly to them.

Biodiversity Management Committee (BMC)

Relevant Section: 41

- Every local body (rural or urban) must form a Biodiversity Management Committee to:
 - Conserve biodiversity,
 - Ensure sustainable use, and
 - Document local species and knowledge.

Example:

- The Dudhai BMC (Uttarakhand) stopped illegal sand mining and revived rivers.

Functions:

- Conserve habitats, land races, folk varieties, cultivars, domestic animals, and microorganisms.
- Levy fees for access and commercial use of biological resources.

Composition:

- 7-member committee elected by the local body.
- At least $\frac{1}{3}$ women and 18% SC/ST members.

Local Biodiversity Fund (LBF) Sections: 42 – 47

- Purpose:
 - To finance local biodiversity conservation and community development.

Sources of Fund:

- Grants/loans from State Government, NBA, or SBB.
- Fees collected under Section 41(3).
- Other approved sources.

Use:

- Strictly for conservation and community welfare consistent with biodiversity protection.

Accountability:

- Annual financial report presented by BMC head.
- Accounts audited and submitted to the local body and District Magistrate.

Peoples' Biodiversity Register (PBR)

- Prepared by the BMC with help from local people.
- Records all biological resources and related traditional knowledge within the area.
- Acts as a legal document confirming the community's rights over the listed resources.
- Proves that local traditional knowledge is prior art of the community and cannot be patented by outsiders.

Biological Diversity (Amendment) Act, 2023

Purpose

- Updates the Biological Diversity Act, 2002 to make the management of India's biological resources simpler, faster, and more growth-oriented.
- Balances conservation with economic use, especially for research, AYUSH, and biotechnology.

Key Objectives

1. Promote Cultivation of Medicinal Plants:
 - Reduces pressure on wild species by encouraging cultivation for Ayurveda and other Indian medicine systems.
2. Ease of Research and Patenting:
 - Fast-tracks research approvals and simplifies patent procedures while maintaining compliance with the Nagoya Protocol.
3. Encourage Foreign Investments:
 - Makes the law less stringent and decriminalizes some offences to attract investment in biological resource-based sectors.
4. Conservation of Biodiversity:
 - Continues focus on sustainable use and benefit sharing while protecting India's biodiversity.
5. Decriminalization:
 - Converts certain criminal offences into monetary penalties, encouraging smoother collaboration with stakeholders.

Comparison: Biological Diversity Act, 2002 vs Amendment Act, 2023

Feature	2002 Act	2023 Amendment	Change
Objective	Conservation, sustainable use, and fair benefit sharing.	Same goals, but adds focus on research, cultivation, and economic growth.	Focus widened from conservation to development too.
Regulatory Framework	Created NBA and SBBs to regulate	Retains them but simplifies approval processes.	Easier access for Indian researchers and industries.

	access and benefit sharing.		
Decriminalization	Criminal penalties for violations.	Replaces criminal offences with fines.	Shifts from punishment to regulation.
Benefit Sharing	Mandatory benefit sharing with communities.	Exemption for AYUSH and codified traditional knowledge users.	Simplifies access for AYUSH and pharma industries.
Access to Biological Resources	Strict approval needed for all, especially foreigners.	Faster access for Indian researchers and companies; foreign rules remain.	Streamlined for domestic use.
Traditional Knowledge	Strict registration and regulation.	Easier use for AYUSH and traditional medicine sectors.	Promotes use of Indian knowledge systems.
Foreign Investments	No focus on investments.	Encourages FDI by easing regulations.	Attracts global research and funding.
Medicinal Plant Cultivation	Not mentioned.	Promotes cultivation to protect wild plants.	New addition.
Nagoya Protocol Compliance	Complied with CBD and Nagoya Protocol.	Retains compliance; speeds up patent and research processes.	Compliance remains; faster implementation.
People's Biodiversity Register (PBR)	Mandatory for local documentation.	No major change.	Continues as before.

Forest Rights Act (FRA), 2006

Purpose

To recognize and vest forest rights in Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs) who have lived in forests for generations but whose rights were not recorded earlier.

Eligibility

- Cut-off date: December 15, 2005.
- Must have lived in forests for 75 years or 3 generations before the cut-off.
- STs are automatically eligible, they don't need to prove the 75-year rule.
- OTFDs must show two proofs out of 19 government-listed evidence.

Types of Rights

1. Individual Rights (IFR)
 - Up to 4 hectares per family.
 - Right to use the land, not own it – ownership stays with Government.
2. Community Rights (CR)
 - Rights to collect and use Non-Timber Forest Produce (NTFP) like honey, bamboo, etc.
3. Community Forest Rights (CFR)
 - Rights to protect, manage, and conserve community forests.

Section 3 – Recognized Rights

- Habitation and cultivation rights on forest land.
- Ownership and collection rights over MFP/NTFP.
- Fishing, grazing, water-use, and pastoral rights.
- Community tenure for primitive tribal and agricultural groups.
- Conversion of forest villages to revenue villages.
- Right to conserve and manage community forests.
- Use of biodiversity and traditional knowledge.
- Rehabilitation for those evicted before Dec 13, 2005.
- Development exemptions: Forest land diversion allowed for basic amenities (schools, roads, etc.) up to 75 trees per hectare, with Central approval.

Section 4 – Implementation & Safeguards

- Rights apply even within critical wildlife habitats of National Parks/Sanctuaries.
- No eviction until rights are verified and recognized.
- Rights are heritable but not transferable.
- Max 4 hectares for individual occupation.

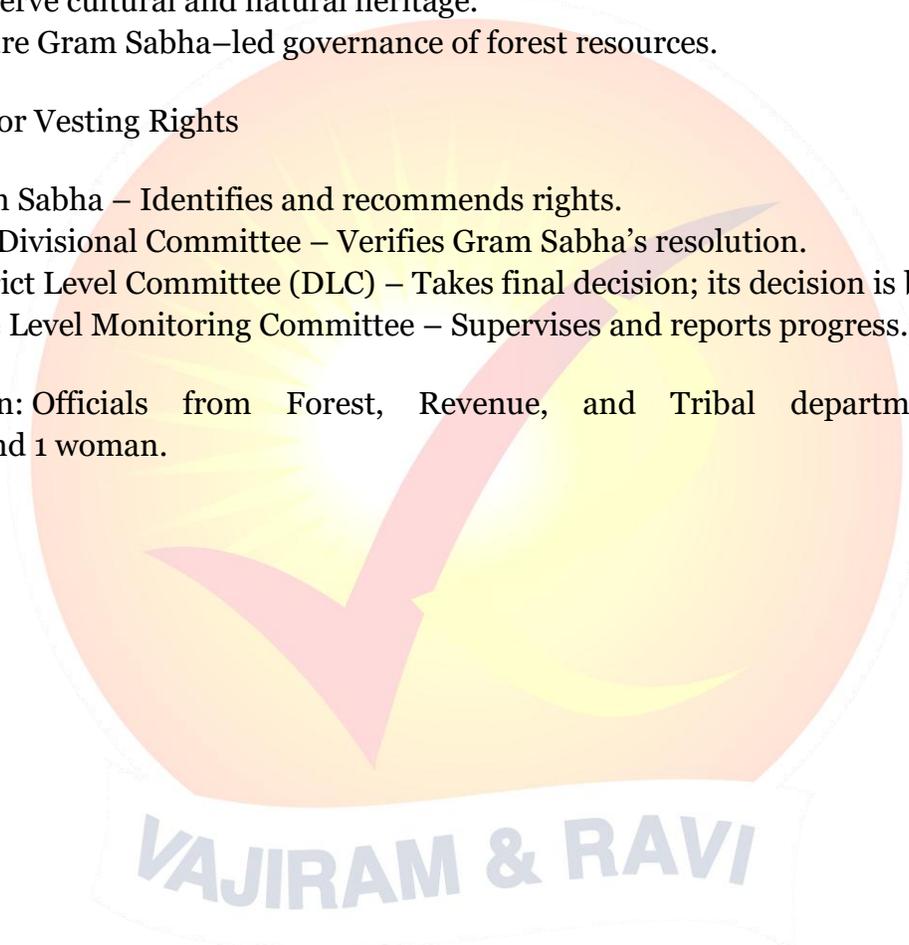
Section 5 – Duties of Right Holders

1. Protect wildlife, forests, and biodiversity.
2. Safeguard water sources and catchment areas.
3. Prevent unsustainable practices.
4. Conserve cultural and natural heritage.
5. Ensure Gram Sabha–led governance of forest resources.

Procedure for Vesting Rights

1. Gram Sabha – Identifies and recommends rights.
2. Sub-Divisional Committee – Verifies Gram Sabha’s resolution.
3. District Level Committee (DLC) – Takes final decision; its decision is binding.
4. State Level Monitoring Committee – Supervises and reports progress.

Composition: Officials from Forest, Revenue, and Tribal departments, 2 ST members and 1 woman.



VAJIRAM & RAVI