

Biodiversity Protection, Farmers and Breeders Right

Prof. Padmavati Manchikanti, Prof. Narendran Thiruthy | IIT Kharagpur

Lecture 14 : Biodiversity Management Committees

Welcome to the course on Biodiversity Protection, Farmers and Breeders Rights. This lecture will be about Biodiversity Management Committees. Concepts covered in this lecture are Decentralized Biodiversity Governance, Biodiversity Management Committees, Constitution of BMCs, Functions of BMC, Powers to Levy Charges by Way of Collection Fee, Local Biodiversity Fund, Consultation by National Biodiversity Authority and the State Biodiversity Boards. The keywords of this lecture can be seen here. In the previous lecture we have seen that the biodiversity governance in India is implemented through a three-tier structure. So, in this three-tier structure the National Biodiversity Authority or the NBA is at the central level, in every state there is a state biodiversity board and in every local body there is a biodiversity management committee.

So, the biodiversity management committees exist at the gram panchayat level or the urban local body level. So, biodiversity governance and management is a multilayered process and this requires involvement of local communities in the conservation, planning and it should be at the core of conservation initiatives. So, that is why India has adopted a decentralized model of biodiversity governance with three different institutions at three different levels. So, biodiversity management committees exists at the local level and plays an active role in the implementation of the biological diversity act.

So, under section 41 clause 1 of the biological diversity act every local body in India shall constitute a biodiversity management committee within its area of jurisdiction. So, under the biological diversity act this is a statutory obligation casted upon the local body. So, it is the duty of the local body to constitute a biodiversity management committee within its area of jurisdiction. Under section 41 the biodiversity management committee is expected to play three major roles. It has an advisory role when it is consulted by the National Biodiversity Authority or the state biodiversity board.

It also has a regulatory role because it is given with the power to levy charges by way of collection fees for accessing or collecting bio resources. It also has a very important role in documentation of biodiversity and traditional knowledge. So, that is one of the most important function of the biodiversity management committee. So, under section 41 the local body are duty bound to create a biodiversity management committee within its jurisdiction. So, this also signifies that each of these institutions in this three-tier

structure has independent existence.

So, biodiversity management committees does not work under the state biodiversity board or the National Biodiversity Authority, but it has an independent existence because it is created by the local body. Under the CBD and Nagoya Protocol, the role of indigenous people and local communities have been duly recognized. The CBD recognizes the close and traditional dependence of many indigenous and local communities and the desirability of sharing benefits arising from the use of traditional knowledge innovations and practices relevant to the conservation of biodiversity and the sustainable use of its components. So, CBD in its preamble itself recognizes the role of indigenous people and local communities in the conservation of biodiversity. Nagoya Protocol in its article 7 requires that party shall take measures as appropriate with the aim of ensuring that the traditional knowledge associated with genetic resources that is held by indigenous and local communities is accessed with the prior informed consent or approval and involvement of these indigenous and local communities and that mutually agreed terms have been established.

So, both this Convention on Biological Diversity that is the CBD and the Nagoya Protocol recognizes the role of indigenous people and local communities in the conservation of biodiversity and that is why the Nagoya Protocol requires that the access to biological resources or associated knowledge shall be only with the prior informed consent and approval and involvement of these indigenous people and local communities. So, when we come to the biological diversity act, the act also recognizes the role of local communities through the creation of an institution called biodiversity management committee. In the constitution of India, considerable powers have been devolved to local self-governments in rural areas through panchayatraj institutions. Panchayatraj institutions function at the local level or usually the village level. So, under article 40 of the Indian Constitution, the state shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-governance and part 9 and 9A of the constitution deals with panchayats and municipalities.

So, the constitution has recognized the role of local self-governments. It gives different powers and functions to panchayats and municipalities under part 9 and part 9A of the constitution. The constitution of BMC or the Biodiversity Management Committee is provided in section 41 of the biological diversity act. So, under section 41 clause 1, every local body in the country shall constitute a biodiversity management committee within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity. So, that means that local bodies are duty bound to create a biodiversity management committee within its area of jurisdiction.

The important functions of biodiversity management committee will be promoting conservation, sustainable use and then the documentation of biological diversity. But what does this word local body mean? So, local bodies is defined in section 2(h) of the biological diversity act. So, local bodies means panchayats and municipalities as given in the constitution that we already seen or other institutions of self-government constituted under any provision of the constitution or by any central act or the state act. So, normally it will be the village panchayats or the municipalities or the corporations who are playing this function of local self-government. So, that means that every panchayat or the municipality or the corporation is duty bound under section 41 of the biological diversity act to constitute a biological diversity management committee or the BMC.

Under rule 22 of the biological diversity rules, the constitution of biodiversity management committee is given. So, every biodiversity management committee will have a chairperson and the chairperson shall be elected from among the members of the committee in a meeting which is chaired by the chairperson of the local body. The chairperson of the local body shall have casting vote in case of a tie. So, that means every biodiversity management committee will have a chairperson and the chairperson will be elected from among the members. And for this election a meeting will be convened and that meeting will be chaired by the chairperson of the local body.

So, that means biodiversity management committees essentially functions under the local body. So, the chairperson of the biodiversity management committee shall have a tenure of 3 years. So, they are given with a tenure of 3 years under rule 22 of the biological diversity rules. The biodiversity management committee shall have not more than 6 members nominated by the local body. So, members of the biodiversity management committee are nominated by the local body of whom not less than one-third should be women and not less than 18% should belong to schedule castes and schedule tribes.

So, one-third of the members of the biodiversity management committee shall be women and not less than 18 percentage of the biodiversity management committee shall be belonging to schedule castes or schedule tribes. Apart from the chairmen and the members the biodiversity management committee also will have the special invitees. So, rule 22 provides that the local member of the legislative assembly or member of the legislative council and the member of the parliament in that constituency would be special invitees to the meetings of the committee. So, that means apart from the chairman and the members the member who is representing that constituency in the legislative assembly or the legislative council or the member of the parliament will be special invitees to the meetings of the biodiversity management committee. The functions of the biodiversity management committee is given in section 41 of the

biological diversity act and in rule 22 of the biological diversity rules.

One of the important function of biodiversity management committee is to document biological diversity and traditional knowledge. So, section 41 says that every local body shall constitute a biodiversity management committee within its area for the purpose of promoting conservation, sustainable use and documentation of biodiversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and microorganisms and chronicling of knowledge related to biodiversity. So, that means that the biodiversity management committee has this important duty to document the biological diversity within its jurisdiction including habitats, conservation of land races, folk varieties, cultivars, domesticated stocks and breeds, microorganisms and the knowledge associated with biological diversity. So, this is a very important function to document the biological diversity and the associated knowledge in the jurisdiction of the local body. So, the rule 22 gives a name to this document.

So, this document will be called as people's biodiversity register. So, there are two more important functions to the biodiversity management committee apart from documentation through people's biodiversity register. So, section 41 provides that the national biodiversity authority and the state biodiversity boards shall consult the biodiversity management committees while taking any decision relating to the use of biological resource and knowledge associated thereto within such to territorial jurisdiction of the biodiversity management committee. So, that means, the biodiversity management committee also has an advisory function when it is consulted by the state biodiversity board or the national biodiversity authority. And then section 41 provides for a third function which is the biodiversity management committees may levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purpose from areas falling within its territorial jurisdiction.

So, the main role of the biological diversity act is to provide for benefit sharing arising from the utilization of biological resources. So, there are several provisions in the biological diversity act for this purpose. The regulatory provisions under the biological diversity act are mainly administered by the national biodiversity authority and the state biodiversity board. But apart from these benefit sharing provisions there is a very important provision in the biological diversity act in the form of section 41 clause 3. So, this gives a very important power to the biodiversity management committee.

So, the biodiversity management committee can levy charges by way of collection fee from any person who is accessing or collecting biological resource for commercial purposes from their jurisdiction. So, the biodiversity management committee has this

very important power of levying charges by way of collection fees. So, that means, that if any biological resource is taken from the jurisdiction of a BMC for commercial purpose or commercial utilization, then immediately the biodiversity management committee can levy a charge by way of collection fees. So, that means, they can impose a collection fee which has to be paid by the collector. So, this is in addition to the benefit sharing which can be imposed under the provisions of the biological diversity act.

So, rule 22 provides that the biodiversity management committee shall also maintain a register giving information about the details of the access to biological resource and traditional knowledge granted, details of collection fee imposed and details of benefits derived and the mode of their sharing. So, that means, when the collection fee is levied by the BMC those details including for what purpose the levy has been made and how much amount has been collected. So, all this information has to be recorded in a register. So, that means, biodiversity management committee has this duty to maintain a register with all this information. So, this means that biodiversity management committee can levy charges by way of collection fee.

So, whenever any biological resource is collected from their jurisdiction. So, this power is only available to the biodiversity management committee. Similar powers has not been given to national biodiversity authority or the state biodiversity board. Another important function of the biodiversity management committee is to advise the national biodiversity authority and the state biodiversity board when they are consulted. Section 41(2) provides that the national biodiversity authority and the state biodiversity boards shall consult the biodiversity management committees while taking any decision relating to the use of biological resource and knowledge associated thereto with such resources occurring within the territorial jurisdiction of biodiversity management committee.

So, the regulatory provisions under the biological diversity act provides that whenever a biological resource or a traditional knowledge is accessed for commercial purpose depending upon the legal status of the user of biodiversity, they have to approach either the national biodiversity authority or the state biodiversity board for securing the requisite approval. So, without approval if anybody undertakes this activity of commercial utilization then it constitutes an offence which is punishable under the biological diversity act. So, this means that every user of biodiversity if it is for a commercial purpose may have to take the approval from the national biodiversity authority or the state biodiversity board. So, once the state biodiversity board or the national biodiversity authority receives an application and then when they are about to take a decision on the application they are duty bound to consult the biodiversity management committee. So, section 41(2) provides that the NBA and the SBB shall consult the biodiversity management committee while taking any decision.

So, if the biological resource is collected is going to be collected from the jurisdiction of a biodiversity management committee, the biodiversity management committee gets a say in the decision making process. Section 24 provides that on receipt of an intimation under subsection 1 the state biodiversity board may in consultation with local bodies concerned and after making such inquiries as it may deem fit by order prohibit or restrict any such activity if it is of the opinion that such activity is detrimental or contrary to the objectives of conservation sustainable use of biodiversity or equitable sharing of benefits arising out of such activity. So, similar to the regulatory activity provided to the national biodiversity authority the state biodiversity boards also has a very important function to regulate activities within their jurisdiction. So, they have this power by order to prohibit or restrict any activity within their jurisdiction if such activity is detrimental or contrary to the objects of conservation sustainable use of biodiversity or equitable sharing of benefits arising out of such activity. So, when an application is received regarding this or an intimation has been received regarding this the state biodiversity board also has a duty to consult with the local bodies concerned.

So, when the local bodies are concerned local bodies are consulted then the biodiversity management committees get a say in this matter. Section 27 and section 32 of the Biological Diversity Act provides for the constitution of national biodiversity fund and the constitution of the state biodiversity fund. So, section 27 (2) provides that the national biodiversity fund shall be applied for socio economic development of areas referred to in clause b in consultation with local bodies consult. So, the national biodiversity fund can be applied only for the specific purposes provided in section 27(2). One of the purpose is socio economic development of areas referred to in clause b in consultation with local bodies concerned.

So, here also the act makes it mandatory to consult the local bodies before any fund is allocated from the national biodiversity fund for the socio economic development of areas from where the biological resource has been collected. Similarly, under section 32 the constitution of state biodiversity fund is provided. So, in 32 (2) clause d the socio economic development of areas from where such biological resources or knowledge associated thereto has been accessed subject to any order made under section 24 in consultation with local bodies concerned. So, here also when the fund is going to be allocated for the socio economic development of areas from where the biological resource or knowledge associated thereto has been accessed then the state biodiversity board has to consult with the local bodies. So, in both these situations whether it is NBA or the state biodiversity board they have to consult with the local bodies before the fund is utilized for the purposes mentioned in section 37 or in section 32.

The biodiversity management committees also has a very important role in the selection and management of biodiversity heritage sites. So, section 37 provides for the notification of biodiversity heritage sites. Section 37 provides that without prejudice to any other law for the time being in force the state government may from time to time in consultation with local bodies notify in the official gazette areas of biodiversity importance as biodiversity heritage sites under the act. So, the power is given to the state government to notify areas of biodiversity importance as biodiversity heritage sites, but while making this notification or while taking this decision to notify an area as an area of biodiversity importance and or as a biodiversity heritage site the state government has to consult with the local body. So, if the area which is going to be notified is coming within the jurisdiction of a local body that local body has to be consulted by the state biodiversity board before taking a decision.

Section 37 clause 2 and 3 provides that the state government in consultation with the central government may frame rules for management and conservation of all the heritage site. Clause 3 provides that the state government shall frame schemes for compensating or rehabilitating any person or section of persons economically affected by such notification. So, that means, the management of the biodiversity heritage site the state government has a very important role. So, the local bodies also has a very important role in the notification process and the subsequent management of the biodiversity heritage sites. Section 43 of the Biological Diversity Act provides for the constitution of local biodiversity fund.

Section 43 clause 1 provides that there shall be constituted a fund to be called as local biodiversity fund at every area notified by the state government where any institution of self government is functioning and there shall be credited to a any grants and loans made under section 42, any grants or loans made by national biodiversity authority, c any grants or loans made by the state biodiversity board, d fees referred to in subsection clause 3 of section 41 received by the biodiversity management committee, e all sums received by the local biodiversity fund from such other sources as may be decided upon by the state government. So, section 43 provides for the constitution of the local biodiversity fund and also specifies the sources from which the fund will be developed. So, clause a provides that any grants and loans made under section 42, b provides that any grants or loans made by the national biodiversity authority, c provides that any grants or loans made by the state biodiversity board. So, this means that all the grants and loans received by the biodiversity management committee will be credited to the local biodiversity fund, whether it is from the national biodiversity authority or the state biodiversity board or from any other source. Other than this the fee collected under section 41 clause 3 that means, the collection fee which is levied by the biodiversity management committee will also be credited to the local biodiversity fund.

So, we have already seen that under section 41 clause 3 the biodiversity management committee has the power to levy charges by way of collection fees if biological resource is collected from their jurisdiction for commercial purpose. So, this fees which is collected by the biodiversity management committee will also be credited to this local biodiversity fund. Apart from this all sums received by local biodiversity fund from such other sources as decided by the state government. So, the state government are empowered under the biological diversity act to develop state rules. So, all the states have notified state rules under the biological diversity act.

So, the state rules may provide some other sources from which the local biodiversity fund can be developed. So, the sums received from such other sources as decided upon by the state government will also be credited to the local biodiversity fund. Section 42 and section 44 also deals with the local biodiversity fund. Under section 42 the state government may after due appropriation made by the state legislature by law in this behalf paid to the local biodiversity fund by way of grants or loans such sums or money as the state government may think fit for being utilized for the purposes of this act. So, this means that the state government can allocate some amount by way of grants or loans for the functioning of the biodiversity management committee or for utilizing for the purposes of the act.

So, when the biodiversity management committee receives such loan or grant that amount will also be credited to the local biodiversity fund. Section 44 specifies the purposes for which the local biodiversity fund can be utilized. 44 clause 1 provides that subject to the provisions of subsection 2 the management and custody of local biodiversity fund and the purposes for which such fund shall be applied be in the manner as may be prescribed by the state government. So, the management and custody of the local biodiversity fund and the purposes for which the fund can be used will be prescribed by the state government. So, many times this will be mentioned in the rules notified by the state government under the biological diversity act.

Clause 2 provides that the fund shall be used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of community in so far such use is consistent with the conservation of biodiversity. So, the fund can be used generally for the conservation and promotion of biodiversity falling within the jurisdiction of the concerned local body. So, if the biodiversity management committee when it exists within the local body the fund can be generally used for the conservation of promotion of biodiversity under its jurisdiction. It can also be used for the benefit of community if it is consistent with the conservation of biodiversity. So, if there is a community who is conserving the biodiversity or a

traditional knowledge then the fund can also be used for the benefit of that community so far as it is consistent with the conservation of biodiversity.

So, now I am going to conclusion. So, to conclude the local bodies are key to the decentralized biodiversity governance. We have seen that the biological diversity act provides for a decentralized mode of biodiversity governance. The biodiversity management committees perform a very important role in the implementation of biological diversity act. The BMCs shall be responsible for ensuring the conservation of biodiversity and protection of traditional knowledge which is recording in the people's biodiversity registers and also in the regulation of access to biodiversity. But there is a need to strengthen the biodiversity management committees and build their capacity to perform these important statutory functions.

Thank you very much for listening to the lecture I hope you are enjoying the course.