

SUSTAINABLE JUSTICE 2002

MONTREAL, JUNE 2002***Workshop on Implementing International Sustainable Development Law*****ACCESS & BENEFIT SHARING CAPACITY BUILDING**

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The expansive extension of environmental degradation, the evident increase in poverty, the continuing dilution of governance and authority, and the increase in so far unthinkable manifestations of violence, show us that we need to forge different attitudes among all peoples. We need to become involved in working and preparing sets of values that will become integral part of our daily activities.

Almost four decades have passed since Rachel Carson; in her book Silent Spring exposed the dangers of DDT. She showed at that time, that human activities have transcended the sense of locality and inclusiveness. We have clearly experienced that some of the national regulations are very fragile, especially when those regarding environmental issues. Even though there may be acceptable standing legal rules and applicable compulsive systems, a lack of general application of these principles does in fact prevail in many of our countries.

It is important to remind us that in 1987 the Report of the World Commission on Environment and Development made it clear that a new global approach was necessary to solve many of our current problems. The possibilities for a new era of economic growth were emphasized, in a future based on environmental policies that would allow for maintained and expanded use of Earth's resources. From there to now, sustainable development would not only focus on economic indicators. Human beings and especially the needs of future generations were brought to the forefront.

The strengthening of the organizations of civil society executing development projects in less developed countries should not be overlooked. Revision of efficiency criteria has to be one of the key elements in the results. This is a guarantee that the effects of the projects will continue to flow in spite of changed circumstances.

About the main objective that have convened us today, we think that one important priority for future research and capacity building agendas is the issue of access genetic resources and the distribution of benefits from their use were two of the most controversial topics debated in the convention on biological diversity.

The sustainable use of genetic resources by means of bioprospection or through other forms of economic utilization presents many opportunities and challenges. With the right foundation it can lead to economic benefits for many people as well

as biodiversity conservation, and an improvement in the well being of local communities and indigenous peoples.

The term "bioprospecting" refers to the search for valuable compounds in nature, e.g., active molecules with the potential for use in drug development. Because of the enormous economic potential of drug development and its utilisation of indigenous knowledge and resources, bioprospecting is a controversial area for which legal and ethical principles have not yet been fully explicated. Stakeholders include pharmaceutical companies, university researchers, national governments, private owners and indigenous communities, each with claims to various rights and benefits pertaining to the practice of bioprospecting.

Historically, access to and benefits from bioprospecting and other resources have been inequitably distributed. Generally, business firms have been able to extract resources and derive economic benefit, while local and indigenous communities receive no benefit from the exploitation of their land and their local knowledge, and often are faced with degraded living conditions. This often happens due to a lack of enforcement of their rights, knowledge, or access to appropriate government agencies.

The Problem

In our region, there are no specialised agencies, public or private, that could act as advisors for private owners, local communities and indigenous groups who possess or control areas appropriate for bioprospection. The result is that Central American local communities miss opportunities for economic and conservation possibilities due to a lack of knowledge concerning alternatives ways of constructing bioprospection agreements. It is impossible to choose to do what one has never heard of, and thus agreements are constructed as they have always been, and opportunities for mutual benefit are missed.

Besides there being no specialised agencies to deal with benefit sharing issues, all but one country lack any legislation at all that deals with the issue. The result is that negotiation of benefit sharing arrangements in Central America is left to the involved parties without any mitigating agencies or advisors.

Agreements are negotiated directly between the bioprospector and owners providing access. But what happens when the owners are not aware that they have a right to benefits deriving from bioprospecting? Or, what happens when the owners are aware that they have legal rights but do not know how to negotiate benefits? What if they don't know that bioprospecting can also be a conservation tool?

What we are doing:

Ambio Foundation is working in a project in which we try to build capacity for negotiation of bioprospection agreements through training modules.

These modules teach the fundamentals, of constructing equitable contractual agreements governing access rights, intellectual property rights (IPR) and benefit sharing for conservation. The education and training could demonstrate the benefit and future potential of such agreements to communities, civil servants and owners as a useful tool in improving the quality of life for local communities and biodiversity conservation.

Phase one is the compilation of information and creation of a practical guide and educational materials.

The focus is done on **the juridical and negotiation skills and tools**. We are producing educational materials in the form of a practical negotiation and legal guide.

In Phase II, the workshops will be the principal activities.

These workshops will be conducted using the materials developed in Phase I. The training session will begin with a short introductory video on the concepts of biodiversity, bioprospecting, and benefit sharing and biodiversity conservation. A validation procedure of the guide and educational materials will be conducted after each session. According to the feedback from the workshop participants the guide and materials will be improved, and then published.

Like human rights, environmental commitment has to become part of the educational process, as a basic element to define common aspirations.

Individuals and groups may, with the consistent application of ethical values, be able to more justly affirm their rights and establish their positions and diverse interests in a more significant and convincing way. Perhaps the most important element to achieve effectiveness of the changes is the individual compromise to follow these principles on a daily and consistent basis.

Thank you.