

DISCUSSION PAPER

Towards an International Regime that Stresses Infrastructural Capacity Development in the Source Countries as a Key Factor for Effective Access and Benefit Sharing in Bioprospecting

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Introduction

The Convention on Biological Diversity (CBD) has three main objectives, and these are:

- The conservation of biological diversity;
- The sustainable use of its components; and
- The fair and equitable sharing of benefits arising out of the utilization of genetic resources, including appropriate access to genetic resources, appropriate transfer of relevant technologies (taking into account all rights over those resources and to technologies) and appropriate funding.

Articles 16 and 18 of the Convention deal with access to and transfer of technology and technical and scientific cooperation respectively. The importance that the international community attaches to these aspects of the convention cannot be overstressed. The first meeting of the COP, in decision I/2, decided that "in accordance with Article 16 of the Convention, and to meet the objectives of conservation of biological diversity and sustainable use of its components, projects which promote access to, transfer of and co-operation for joint development of technology" would be one of the programme priorities for access to and utilisation of the financial resources available through the Convention's financial mechanism. Article 18 further stresses that in promoting such cooperation, special attention should be given to the development and strengthening of national capabilities, by means of human resources development and institution building.

Just as one objective of the convention is of no greater importance than any other, and since each is in fact dependent upon the other, it is also important to note that the fair and equitable sharing of benefits arising out of the utilization of genetic resources are intrinsically linked to access to those genetic resources, appropriate transfer of relevant technologies (taking into account all rights over those resources and to technologies) and appropriate funding. Categories of technologies are defined as: technologies relevant to the conservation of biological diversity; technologies relevant to the sustainable use of the components of biological diversity; and those technologies that make use of genetic resources.

¹ Opinions expressed in this paper are those of the author and do not necessarily reflect those of BDCPC.

Importance of Infrastructural Capacity Development in the Source Countries

The importance of the development of infrastructural capacity in the source countries can be summarised in four points as follows:

Infrastructural Capacity Enables In Situ Research on 'Orphan Diseases'

Experience has shown that most research carried out on diseases that affect people is done so in developed countries for the simple reason that the chances of reaping back the enormous investment in R&D process are higher in those countries than in poor source countries. This, in effect, means that some diseases that are limited to poor source countries (what we have termed here as orphan diseases), and are a priority of those same countries, receive less attention. If these countries have the necessary infrastructures they will be able to carry out research on these diseases for the benefit of their populations. The time has now come when the average local person will want to see collaborative research come out of laboratories and affect their livelihood in a significant way.

Infrastructural Capacity to Make Use of Preliminary Collaborative Research Findings

In collaborative bioprospecting research, one of the benefits is access to preliminary research results. These preliminary results usually indicate the level of activity of compounds from the plant samples which are sent back to the collaborative source country institutions. The challenge, however, arises when the developed country partners decide to discontinue further research on those compounds and the developing country partner is left with no means to move on because they lack the infrastructure and resources necessary. With a viable infrastructure, they can either continue with the same research or use such preliminary results to carry out research related to other diseases.

Infrastructural Capacity Gives Power to Negotiate

There is nothing as salient in collaborative bioprospecting ventures as the power to negotiate. For benefit-sharing to be fair and equitable, each party must be able to negotiate that effectively from the onset. Experience has shown that competition for the limited funds that the developed countries are willing to spend on R&D has been aggravated by limited infrastructural capacity, thus reducing some of the source country scientists to mere collectors. With good infrastructure, these well trained source country scientists can negotiate with their partners on equal basis and this in effect will lead to effective negotiation of benefits sharing terms that are fair and equitable.

Infrastructural Capacity Out-Lives the Project

Many development projects in Africa have been criticised for their top-down nature, designed to survive only as long as foreign sources of funds are available. We have seen projects that dramatically and positively change the economic, social and cultural landscape of local communities overnight, only to leave those very communities worse off after foreign partners come to the end of their funding period. It is not uncommon to hear of local people say that when this or that project was going on, they benefited from payments as collectors or guides, received good prices for their agricultural projects, and now that the project has ended they do not receive such benefits.

The response would be different if, during the project execution phase, there was significant infrastructural development tailored to meet the needs of the people allowing them to continue working even when their foreign partners have left.

The Way Forward

Moving From Quick Fixes To Felt Needs

As noted earlier, the Convention explicitly recognises the role that all categories of technology play in the conservation of biological diversity and the use of genetic resources. Article 12 focuses on research and training, which is an essential aspect of technological capacity-building. It calls on the Contracting Parties to “establish and maintain programmes for scientific and technical education and training in measures for the identification, conservation and sustainable use of biological diversity and its components and provide support for such education and training for the *specific needs of developing countries*”. The question that immediately comes to mind is who determines the needs of those developing country parties? Is it the technology suppliers who determine what the developing countries need and which they (the developed countries) are willing to supply or is it the developing countries that determine what they need and are willing to apply? At this point, we will now have to look at the concepts of Quick-Fix and that of Felt Needs.

Quick Fix Illusion

John M. Perkins, founder and publisher of *Urban Family* magazine, says the Quick-Fix solution sets up a “we-them” dynamic or “we do-gooders have the solution for these poor people”.² In our present case, such an attitude assumes that despite not living in or having a good understanding of developing source countries, these people believe they know what such places are in need of. As has been realised, one of the main limitations of current discussions on the access to and transfer of technology is that they treat all technologies as having the same characteristics and as being suitable for transfer through one mechanism. The characteristics of a particular technology not only determine the mechanism or ways for its transfer, but are also likely to influence the kinds of policies that are put in place to promote its development and transfer. Thus, it is important to understand the nature or characteristics of the relevant technologies before determining specific mechanisms and measures to facilitate their development and/or transfer.³

The Quick-Fix illusion is therefore applicable when we assume that we already know what some one needs, we know the solution and the expected results, i.e. we know what needs fixing. In so doing we will also like to shape the person with our values, doctrines etc. The quick-fix mentality makes the technology suppliers to hurriedly focus on the wrong technology that they presume is required and overlook what is most needed. Until contracting parties truly interact with each other on a partnership basis, listening and appreciating each other’s opinion and feel the needs of others with them, technology transfer will only be scratching the surface of yet unsolved real problems. Perkins says further that the great question in indigenous leadership development is “How do we affirm the dignity of people, motivate them, and help them take responsibility for their own lives?” When answering this key question, we face the problem associated with the Felt-Need Concept.

The Felt Need Concept

Felt needs are different from person to person and from place to place. For effective co-operation to take place these needs have to be identified. The only way to identify these needs is to enter into a true partnership with people and true partnership can only exist when

² John M. Perkins. 1993. *Beyond Charity: The Call To Christian Community Development*. Baker Books

³ UNEP/CBD/COP/3/21 15 September 1996

each party feels significant and important and as having something to offer to the relationship. Most African scientists have had training in universities in developed countries - often the same universities as their developed countries colleagues. Due to an acute lack of infrastructure and research funds from their governments and private investors, however, they cannot conduct as much research as these colleagues. They have the task of balancing conservation with the felt development needs of their people. No one can pretend to know the needs of the local people more than these people who are part of the same society and feel the needs themselves. If by entering into a partnership arrangement with their developing country partners, northern partners have an upper hand in decision making on all research matters, simply because they have access to better infrastructure and funding. Such a situation will be ushering in a quick-fix syndrome which might not last.

The effective involvement of source country scientists in research builds bridges of trust to combat distrust and suspicion that have always separated the rich from the poor. This relationship also motivates developing country partners to take responsibilities for their own lives. It is the opposite of the welfare mentality, which cripples people and makes them dependent on others.

Sustainable Infrastructure Development Approach

Building on the base of national experts that developing countries have, there is a need for what has been called the turnkey-projects approach, which is a mode of transferring certain components and elements of technology under bilateral technical-co-operation arrangements. It involves the construction, demonstrated operation, and commissioning or handover of a facility by technical experts from a technology-supplying firm and/or country to the recipient institution or country. This mechanism has been applied in the development of gene-banking facilities and in the transfer of relevant technology elements in a number of developing countries. This will however also depend on the developing countries governments to create enabling socio political and legislative environment, which assures security for investment.

There is also a need for greater public investment in infrastructure for effective research at the national level. Generally, potential benefits of bioprospecting are usually 15 long years down the road and private investment is usually very limited. Source country governments need to invest more in this area if they want to negotiate from the position of strength for their benefits.

Conclusion

The Rio Summit is 12 years old and with the experience the international community has gathered over these years we cannot overlook the importance of infrastructural development in source countries for the fair and equitable sharing of benefits. R&D collaboration should be based on the fact that each and every party has something to offer and that source countries have the human capacity and are able to determine what their needs are and that what they lack is the necessary infrastructure. Instead of coming with a quick-fix solution, research partners should try to develop a true collaborative relationship through a felt needs approach. An international regime that stresses this factor will be the desire of most source countries.