

ABS and Poverty: Practical Approaches for Reducing Poverty through ABS
Side event at ABS Working Group, 3rd February 2006
ANDES, IIED, FIELD, Netherlands Ministry of Foreign Affairs

Overview – K. Swiderska (IIED). World leaders have agreed the Millennium Development Goals which set a series of targets, mainly for 2015, for eradicating poverty and extreme hunger; enhancing gender equality; providing access to education; improving health; combating HIV etc. The need for poverty reduction has also been identified in the context of the CBD, which recognises that: “economic and social development and poverty eradication are the first and overriding priorities of developing countries” (preamble). One of the objectives of the Bonn Guidelines is: “To contribute to poverty alleviation and be supportive to the realisation of human food security, health and cultural integrity, especially in developing countries”.

The 2002 World Summit on Sustainable Development (WSSD), which provided the mandate for negotiating an international regime on ABS, recognises that biodiversity plays a critical role in poverty eradication, and is essential to human well-being, livelihood and cultural integrity. It also recognises that biodiversity loss can only be reversed if local people benefit from conservation and sustainable use, particularly in countries of origin of genetic resources.

Poor people in biodiversity rich areas depend directly on natural resources and biodiversity for a large part of their livelihoods, particularly indigenous and local communities embodying traditional lifestyles. For them, secure land tenure and access to natural resources are often more important than money or income. The ABS framework established in the CBD and FAO Treaty was not conceived with the needs of the poor in mind. But it can serve as a useful tool for contributing to poverty reduction and biodiversity conservation, if certain provisions are made. For example if:

- 1) ‘State sovereignty’ is clearly defined to recognise the important role of indigenous and local communities as stewards and custodians of biodiversity, and enable their participation in PIC and ABS policy and processes.
- 2) ABS frameworks are ‘reversed’ to enable access by communities to ex-situ Genetic Resources for food security and health – as well as access by companies and scientists to community resources. This is becoming increasingly critical for communities with changing climate.
- 3) Customary laws are used to shape Equitable Benefit-sharing models, so that the benefits help to strengthen local institutions which sustain local economies and biodiversity.
- 4) ABS agreements contribute to Community NRM systems which strengthen livelihoods, culture and rights. For example, Community Conserved Areas based on the holistic concept of ‘Collective Bio-Cultural Heritage’, defined as: “Knowledge, innovations and practices of indigenous peoples and local communities which are collectively held and inextricably linked to traditional resources and territories; including the diversity of genes, varieties, species and ecosystems; cultural and spiritual values; and customary laws shaped within the socio-ecological context of communities”.

ABS and Poverty Reduction in the Potato Park, Peru – A. Alejandro (ANDES). The Potato Park is an Andean Community Conserved Area managed by six Quechua communities in a centre of origin of potato diversity and an area with high levels of poverty. It is a sui generis system which seeks to protect Collective Bio-Cultural Heritage and reduce poverty through collective land tenure and landscape management. In December 2004, the Potato Park communities signed the first ever agreement between communities and a gene bank, the International Potato Centre (CIP), for repatriation of potato varieties. The agreement provides reciprocal access to genetic resources, enabling communities to access germ-free potato strains to enhance their food security and health, and contribute to achieving the MDGs, whilst enhancing biodiversity. An Inter-Community agreement for Equitable Benefit-Sharing between the communities is being developed on the basis of Andean customary laws of reciprocity. This will ensure that the potatoes provide maximum ‘horizontal’ benefits by strengthening local economies at landscape level. In addition, CIP has agreed to provide a share of the monetary benefits derived from past use of native potatoes collected from the area in the 1960s and 70s. These benefits are being used to set up a restaurant for traditional cuisine using traditional varieties.

Sovereign Rights: An International Law Perspective – L. Siegele (FIELD). The evolution of the principle of national sovereignty over natural resources was traced from its beginnings as a political claim made in the UN General Assembly by former colonial States to its appearance as a principle in Article 3 of the Convention on Biological Diversity (CBD). At the international level, this principle plays a significant role in balancing the impact on genetic resources of private ownership provisions in other international instruments such as the WTO's TRIPS agreement and UPOV 1991.

It is important to note that a State's sovereign right over its natural resources is not absolute. In exercising its sovereign right a State has the duty to ensure that activities conducted within its area of territorial control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. A State's sovereign rights are also tempered by other international law principles, not least of which are those associated with the international law of human rights. While the sovereign rights principle in the CBD acts as a powerful deterrent to the 'privatisation' of biological resources at the international level, from the point of view of national implementation, it gives rise to the risk that authority over biological resources is concentrated within national government institutions. The impact of this risk of centralisation is often compounded where a State's constitution does not recognise the traditional laws of its local and indigenous populations.

Tools for safeguarding local and indigenous practices do exist both within the CBD process and in the larger international legal arena. Fair and equitable sharing of the benefits of genetic resources is a fundamental objective of the CBD (Article 1). The sovereign State has a duty to 'respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities' (Article 8(j)) and must 'protect and encourage customary use of biological resources in accordance with traditional cultural practices' (Article 10(c)). The Bonn Guidelines provide for the delegation of the authority to give prior informed consent. They also provide for stakeholder consultation throughout the ABS process and equitable sharing of benefits with mutually agreed terms. The terms of reference (TOR) for formulating the international ABS regime require that Contracting Parties support the participation of indigenous peoples, collaborate with the working group on Article 8(j) and consider international and regional human rights instruments. Outside the CBD process, as recognised by the TOR, international human rights law provides strong safeguards for local and indigenous practices. The ongoing work on a declaration on the rights of indigenous peoples is particularly relevant.

The tools exist in international law for fashioning an international access and benefit-sharing regime that fosters local management of genetic resources. Political will and a level of trust within central governments, however, will be required before these tools can be used effectively.

Perspectives of a Development Agency – F. Hoogveld (DGIS). The WSSD gave a clear mandate to the international community to negotiate an International Regime on Access and Benefit Sharing which should include poverty reduction as a main focus. Herewith it is agreed that poverty reduction is the objective which will finally underpin the success of any effort for sustainable development.

The presentation of the concrete example of the experience in Peru is helping us to realise that biodiversity is in first place an asset for the local population and hence for billions of people in their struggle for a sustainable livelihood. The Peru case also clearly demonstrated that it is possible to reverse the view that an IR on ABS consist of balancing between international parties looking for Access and provider countries seeking fair and equitable sharing of benefits. The ABS regime should explicitly also include the possibility for local populations to gain Access. The example made once again clear that access and user rights to genetic resources, natural resources and land are at the heart of poverty alleviation processes and that traditional customs and knowledge systems are alive and able to cope with global problems.

The Indigenous peoples of the Potato Park have shown that they are willing and able to take their responsibility in contributing to solve global problems. In fact they have shown that Indigenous Peoples and local populations together ARE the world community. They have shown that National sovereignty over genetic resources is composed of custodianship by the people living in the country.