

SUGGESTED ETHICAL GUIDELINES FOR ACCESSING AND EXPLORING BIODIVERSITY

ANIL K. GUPTA

Coordinator, SRISTI
Indian Institute of Management
Ahmedabad 380 015

Preamble

Biodiversity in both developing and developed countries has been accessed for a long time by outside researchers and corporate prospectors as well as by local communities. Such activities are carried out for various purposes. Sometimes plants, animals and habitats are merely described, other times the goal is to extract for profit. These activities have helped to advance knowledge and create awareness of how precious biodiversity is. These activities have also generated many products that contribute to the health and well-being of global consumers, but may not necessarily provide benefits to their original stewards.

Research has also focused attention on particular features of biodiversity. For example, we realize today that some of the regions of high biodiversity are inhabited by people considered to be economically poor by most international standards. We also recognize that, in many cases, the biodiversity will disappear if economic conditions of the communities do not improve as a result of their stewardship of the resource.

Biodiversity has been conserved, both by local community traditions, and by more formal means, with varying degrees of effectiveness.

One recently proposed means is the Convention on Biological Diversity. That convention has been ratified by a large number of countries and has stimulated global concern over this issue. It has provided a framework for conserving biodiversity. At the same time many local communities, NGOs and people's organizations are advancing alternative ways to conserve biodiversity and cultural diversity. In many places, the conservation of biodiversity and the protection of cultural diversity are inescapably intertwined. Despite strong links between biodiversity and the land and water management traditions of the 6000 linguistically distinct cultures, the Convention.

Biological diversity focuses on nation-state sovereignty over biodiversity. We believe that local communities should have greater say in whether and how diversity is studied, extracted and commercialized. We consider prior informed consent to be a necessary requirement of such explorations, as is equitable sharing of any benefits arising from them.

From our perspective, the Convention and Biological diversity generated lots of hope, but also some concerns. For instance, should researchers who merely want to understand the lives of certain plants or animals be treated differently from those extracting raw material for corporations? Will the Convention generate ethically responsible behaviour of those who wish to benefit from developing new plant and animal products for sale? Will local communities and indigenous people really be accorded more than token participation?

We see a clear need for clarification of ethical norms to guide all those involved in the exploration of biodiversity. While knowledge may be advanced, profits earned, and new products made available from such exploration, this does not guarantee that conditions of these communities will be improved. In many cases, these conditions have become worse due to depletion of local resources. Many researchers have obtained knowledge about biodiversity and its uses from local innovators, communities and institutions, but have not adequately acknowledged their contribution or shared with them the benefits accruing from research. Some researchers may have done so without any intention of betraying the trust of the people: ironically they actually have conformed to the prevailing professional norms. These norms must change, for they have been inadequate in ensuring equity and respectful exchanges.

Principles underlying these guidelines

- 1) Research is an educational process leading to mutual learning among researchers and the collaborating individuals, communities and institutions.

- 2) Just as the proprietary rights of scientific knowledge are well established and respected, such rights are due to the producers and providers of traditional knowledge and contemporary innovations from local communities.
- 3) Research should be based on respect for the local cultural values and norms.
- 4) Benefits should accrue to all partners in a fair and equitable manner.

Scope of the guidelines

In these guidelines, the term "researcher" refers both to the individual conducting the research and to the sponsoring or contracting institutions on whose behalf the individual conducts the research.

Several other aspects of ethical obligations of or towards local communities, nation state governments, consumers, and future generations remain to be explored. However, in these guidelines, we recommend protocols for conduct of researchers (academic or commercial) and professional societies, bodies or institutions. It should be pointed out that some studies carried out with no commercial motive may produce results that subsequently acquire commercial value, and so protocols must take this into account.

These guidelines are intended to cover many types of research, including:

- a) *Non-Extractive Non-Commercial Research:* Biologists document the evolution of species and ecological patterns and processes through observation, simulation etc., without collection of samples.
- b) *Extractive but with primarily Non-Commercial Research:* This might involve collection of samples of organisms for description, or for analysis of the interrelationships among species.
- c) *Non-Extractive Research with Possible Commercial Potential:* Ethno-biologists may study plants and animals without collection of samples. These studies may involve documentation of local innovations, traditional knowledge and practices, development of data bases of such knowledge, publication of books, films, or other forms of dissemination of local knowledge, for instance

electronic communication, CDs etc. This local knowledge may be documented to preserve or share within the community or beyond it.

- d) *Extractive Research intended for Commercial Development:* Extraction could be in small quantity such as for bio-technological laboratories or in large quantities for natural product development. Such research done by students, academic researchers, corporate researchers or local communities, may be intended to develop new products based on biodiversity traditionally used by local communities or elaborated by individual innovators. It may also involve screening and analyzing biodiversity, without making any reference to local uses.

We offer this note of caution as we attempt to respond to indigenous peoples' concerns. These guidelines are not intended to provide a definitive set of procedures which every biodiversity accessor must follow to ensure appropriate ethical standards. The objectives of researchers are highly varied, as are the political, cultural, social, environmental and economic contexts in which they work. These make it difficult for a single set of guidelines to be universally applicable.

These guidelines are intended to promote good, ethical and responsible research as well as equitable exchanges among the communities and institutions which access biodiversity: industries, professional organizations concerned with conservation, indigenous or local communities government and inter-governmental agencies, as well as donors or philanthropists, supported research and conservation.

These guidelines must be adapted to function in a wide range of political circumstances. For example: indigenous communities may be governed by national or state governments that are either sensitive or insensitive to their needs and rights. In addition, explorers may be engaged with either private, public or commercially-owned natural resources. They may be involved in projects which can be small or large, as these obviously affect how these guidelines can be implemented.

The reader can undoubtedly think of economic, cultural or geographic variables that could generate similar lists. In light of these diverse

circumstances, we classify each recommendation in these guidelines into one of three categories:

1. actions that we believe all ethical biodiversity assessors must carry out;
2. actions that are usually, but not always appropriate, and
3. actions that are sometimes but by no means generally appropriate.

We distinguish between these categories as follows:

Some recommendations will hopefully be universally applied. For example, few would disagree with the contention that all assessors of biodiversity must reveal their methods and objectives to the local people on whose land or in whose waters they are proposing to work. We thus preface our descriptions of these actions with the phrase "assessors must."

2. Some actions appear to be of wide but not invariable applicability. In such circumstances we preface our recommendation with the phrase "assessors should."
3. Finally, there are actions that are clearly required of ethical biodiversity assessors in some circumstances but not in others. For example monetary compensation is often appropriate for those who provided valuable knowledge or access to biological resources that belong to them. Sometimes, however, such compensation is refused. Here we preface our recommendation with the phrase "assessors should consider." Thus considering compensation in such alternative forms as a trust fund or scholarship to benefit the community involved.

Another issue involves placing conditions on compensation, such as requiring that it not be used for socially or environmentally destructive purposes. Conservation organizations tend to favour such arrangements, but communities often believe that they should have the right to use compensation for use of their biodiversity as they see fit. Thus we recommend that biodiversity assessors consider such restrictions.

Guidelines

In cases where local communities have their own guidelines these may have precedence over what we discuss below. Guidelines under sections 1

and 2 apply to all researchers and explorers with or without commercial motives. However, sections 3 and 4 apply more particularly to those researchers who have commercial interests and motives. Section 5 deals with the obligations of professional societies and academic institutions.

1. Approval

In most cases the researchers should obtain clearance from the appropriate central or state government authority and, where applicable, from institutions of indigenous people.

2. Initial disclosure of information

When first contacting a community or individual to seek access, the researcher:

- ☆ should carry out all communications in the local language
- ☆ must explain the nature and purpose of the proposed research, including its duration, the geographic area in which research would take place, and research and the collecting methods:
- ☆ must explain the foreseeable consequences of the research for resources, people, and assessors, including potential commercial value
- ☆ should explain the potential non-commercial values, such as academic recognition and advancement for the researcher
- ☆ should explain any social and/or cultural risks
- ☆ must notify the community at large by some means, e.g. public meeting
- ☆ should consider explaining the guidelines that the researcher is following, as well as his/her practice in previous similar research projects
- ☆ should be willing to provide copies of relevant project documents, or summaries thereof, preferably including the project budget, in the local language. In the case of commercial prospecting, researchers must share such documents.
- ☆ must agree on a protocol of acknowledgements, citation, authorship, inventorship as applicable, either citing local innovators or conservators, or respecting request for anonymity.
- ☆ must share findings different stages with the providers

- ☆ must not engage in bribery or making false promises

3. Involvement/Negotiation

In negotiations, the researcher:

- ☆ must make a reasonable effort to identify and negotiate with those with the proper authority to negotiate.
- ☆ should conduct initial discussions with small groups (but obtain final approval from higher legitimate authority wherever applicable)
- ☆ should consider, where there is no existing authority or capacity for such negotiations, helping the community develop the institutional capacity to appraise and (if it chooses) enter into such agreements.
- ☆ should be willing to provide copies of relevant project documents, preferably including the project budget
- ☆ must disclose commercial interest or other possible interest of present or future third parties
- ☆ should include a local institution as partner in research, where an appropriate one exists
- ☆ should consider drawing up a collaborative agreement
- ☆ if such an agreement is made, the researcher should consider depositing a copy of it with a relevant regional/sub regional body
- ☆ should ensure that the actual entity that is directing the research is a party to the agreement whether they are carrying out the work themselves or through contractors

4. Compensation and Other Terms of Access

The researcher:

- ☆ must make every effort to ensure that providing communities and counterpart institutions will share equitably in the benefits.
- ☆ shall make every effort to develop effective mechanisms for benefit-sharing, (recognizing that no proven universal methods exist, and that cultural and other circumstances will vary widely from one case to the next).

Parties should arrive at the scope, extent and form of compensation keeping all the following stages in mind.

- a. when accessing is done,
- b. when a new use is discovered
- c. when a product is developed
- d. when commercialization is done.

Arrangements for compensation should incorporate the following obligations:

- i. The community's right to any organism or part thereof extracted by any biotechnological or other method must not be exhausted merely by publication or collection. The community can assign these rights or associated intellectual property rights (IPRs) to anyone it feels appropriate.
- ii. The community has the right to refuse collection by any researcher even after the initial research has shown its utility.
- iii. Any research collecting from an alternative location/community/species country should take into account the contribution of the original source in generating commercial returns.
- iv. The period of production should be considered to be valid as per the law in force for the property or form of accessed material being commercialized.
- v. At stage 'b' or 'c' above, researchers must negotiate with the source community the terms of profit-sharing from commercialization, even when knowledge is provided by an emigrant belonging to that community.
- vi. Researchers should consider helping to set up local/community- managed institutional funds or other augmentative mechanisms for local community development in cases where individuals/communities refuse(s) monetary compensation.

5. Professional Societies, Academic institutions and Funding Agencies:

- ☆ should encourage citation of intellectual contributions of local innovators, communities and groups
- ☆ should ensure sharing in the local language the insights gained from local communities or innovators either by the prior agreement or by the time of publication, or within reasonable time but not beyond one year of publication.

- ☆ should help set up a system of registration of innovations/practices so that IPRs of local communities or innovators are not exhausted
- ☆ should set up rules of good conduct and practice by researchers
- ☆ should recognize, support and reward ethical practices in research
- ☆ should set up bioethics committees to protect the rights of researchers, communities and individuals contributing to the conservation of biodiversity.

Reprinted from the *Eubios Journal of Asian and International Bioethics* 5 (March 1995)

Madras Agric. J., 84(10): 573 - 588 October 1997

In Defense of Grassroots Innovators ...

SRISTI Initiatives for Conservation through Augmenting Creativity at Grassroots

SRISTI



Society for Research and Initiatives for Sustainable Technologies and Institutions
 C/o Prof. Anil K. Gupta
 Indian Institute of Management, Vastrapur, Ahmedabad - 380 015 India
 email : anilg@iimahd.ernet.in; hencybee@iimahd.ernet.in sristi@ad1.vsnl.net.in
 Fax : 91 - 79 - 6427896 Tel : 91-79-407241 (O) 91-79-6564979 (R)
<http://csf.colorado.edu.sristi>