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**How the CBD's interpretation of "biodiversity" has become a threat to the livelihood of communities**



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## OUR VIEWPOINT



### **The CBD's interpretation of "biodiversity" opens the door to new forms of biopiracy**

Compared with the struggle to stop the destruction of forests, the resistance of forest-dependent communities against governments facilitating corporate control over their traditional knowledge and use of seeds, plants and animals on which they depend and build their local food, health, economic, religious and spiritual systems is less visible – but no less important. This bulletin focuses on that struggle where the stakes are equally high, over who controls traditional and intellectual knowledge linked to seeds, plants and animals. We could also call it the struggle to defend a collective way of living that secures the well-being and survival of communities, or just the battle to defend life.

Free trade agreements are at the top of many governments' agendas and the UN is getting ready for yet another CBD (Convention of Biological Diversity) conference round. So, we felt time was right for a WRM bulletin edition exploring how the process of privatization and appropriation of genetic diversity undermines the way of life of forest-dependent communities.

An interview with Kichwa leader Blanca Chancoso from Ecuador shows how reducing (genetic) diversity to a "genetic resource" that can be isolated from the complex interactions that created it in the first place, and for which 'benefit sharing protocols' can be negotiated, helped prepare this diversity for corporate take-over. "They are not sharing benefits, they have never shared any", is one of Blanca's key observations. It's the result of many years of experience accumulated by indigenous peoples in Ecuador and around the world with corporations entering their territories to grab not only "genetic resources" but also timber, minerals, and oil or promote hydropower dams, monoculture plantations, etc.



Corporate greed for control over what pharmaceutical corporations, agribusiness and the UN Convention on Biological Diversity have come to make us call “genetic resources” is also driving governments of so-called “biodiverse” countries in the global South to facilitate that corporate control over genetic diversity and “biodiversity” more broadly. Brazil, for example, is in the process of adopting new legislation that would hand over for “free” to transnational corporations the “genetic resources” on which local indigenous peoples and peasant communities built their way of life and which provides their livelihood. One bulletin article describes how corporate leaders had preferential access to the law-making process long before peasant organizations, indigenous peoples, traditional communities and others whose way of life the new law would gravely affect were given the chance to make their views known on the proposed legislation. Another article describes why in Guatemala, the Constitutional Court ruled that the Nagoya Protocol, one of the key international agreements on 'access to genetic resources and benefit sharing' negotiated under the CBD, violates the country's Constitution. The court ruling prohibits the Protocol's transposition into national law.

Two further articles outline how the western concept of the world where “plants” and “animals” are abstracted to “genetic resources”, “biodiversity” and “ecosystem services” is allowing governments and UN institutions like the CBD to come up with proposals for 'benefit sharing protocols', 'biodiversity offsets', 'REDD+' or 'synthetic biology'. These initiatives and the instruments they breed are becoming new forms of biopiracy and plundering, threatening communities and territories. The articles show how these new instruments of corporate plunder go hand in hand with control and surveillance of community life, a consequence La Via Campesina has been denouncing for many years: peasant, indigenous and other traditional populations are increasingly and with increasing aggression restricted in their free use, conservation and exchange of seeds and other agrobiodiversity essential to their way of life.

Collective struggles of forest-dependent peoples and populations have many dimensions. A fundamental one is the physical resistance against outright destruction in the territories; another crucial one is the defense of the free use and sharing of seeds, plants, animals on which forest communities so crucially depend. This diversity has coevolved with the particular cultivation systems forest communities, and women within these communities in particular, have nurtured for generations. It is this web of diversity which corporations are working hard to reduce to patentable “genetic resources” that can be placed under corporate control. The examples in this bulletin show why it is so important to prevent this corporate grab of seeds and diversity. They also show how communities and peasant organisations are guarding their right to free use and sharing of the diversity their traditional knowledge systems have created.

We hope you will enjoy the read!



## HOW THE CBD'S INTERPRETATION OF "BIODIVERSITY" HAS BECOME A THREAT TO THE LIVELIHOOD OF COMMUNITIES



### From Biodiversity Offsets to Ecosystem Engineering: New Threats to Communities and Territories

At a meeting in a *wixárika* community in Jalisco, México, with organizations and villagers from other areas, the language we used to communicate was Spanish. We discussed threats to territories, corn, transgenics, agrochemicals, “biopiracy” and the patenting of plants and indigenous knowledge. Most participants were *wixáritari* (called *huicholes* in Spanish). During the meeting, they talked amongst themselves in their language. They say words like “transgenics” and “biopiracy” in Spanish.

What struck me was that in their conversations, the *wixáritari* also said the words “plants” and “animals” in Spanish. I thought it was strange that those words would not exist in their language; and so I asked Lauro, one of the older community members, who confirmed that this was indeed the case. I was surprised and tried to understand why. Lauro thought for a moment and said “We do not have a word for all animals that does not include us, or all plants without us, as if everything were one and we are not included.” Every animal, every plant and every living thing, just like every mountain, river, road—and even rock and stone—has a name; because they are all subjects, part of the same continuum of beings that make up community in a territory.

How far “biodiversity,” “biocultural heritage,” and other similar concepts are from these much deeper conceptions. These concepts group together “categories” that do not exist, because they are not categories of the same thing. Every community and traditional culture has a unique way of being in their territory and of relating with the elements it comprises.

To place all living things, their systems of relationships, subsistence and mutual support, and their cultures and histories under one term that synthesizes and paradoxically standardizes everything is useful to create international laws, regulations and commercial transactions; but it is far from reality. An example of this is using the term “environmental services” to describe the vital functions of very complex and diverse systems—such as forests, rivers, soils, air, and breathing and nutritional systems of nature’s elements. Yet this extreme conceptual simplification is useful for trading,



selling or issuing bonds for “services,” as it eliminates all complexities and thus enables “biodiversity offsets.”

Using this definition, mining, oil or timber companies with extensive and deforesting monoculture, justify the destruction of large natural areas—which are often the basis of communities' livelihood—if the company or an allied international “conservation” NGO “protects” an equally “biodiverse” area elsewhere, even if in another part of the world. As if the destruction of a forest or community could be compensated by sparing another community's life, or by letting another forest stand elsewhere. Nonetheless, this is exactly the basis of so-called “biodiversity offsets,” one of the recent additions to the lucrative “zero *net* damage” market: zero *net* carbon emissions, zero *net* deforestation, zero *net* destruction of biodiversity.

If one sees the world as a huge market, it is necessary to level, standardize and define common measures that enable trade. In this view, anything can supposedly be “offset;” thus greenhouse gases can continue being emitted, and deforestation can go on destroying natural and biodiverse areas. It is not a matter of stopping, reducing, or avoiding; just that the sum total after offsets is zero, according to those who have taken over the definition of measures and the system of adding and subtracting.

There are many examples that demonstrate the injustice of applying this mentality. One of WRM's most recent reports on biodiversity offsets by mining company Río Tinto in Madagascar is a clear example of how unjust the biodiversity offset system can be, even if it is presented as a model in international negotiations. (1)

Offset systems, whether biodiversity, carbon or others, offer additional benefits to the companies and NGOs involved. They allow them to continue with destructive activities, as well as to generate speculative financial market niches from the bonds and credits obtained from the “offset.” Really they do not offset anything, but rather those secondary actions are a source of business and additional profits.

In the case of REDD and biodiversity offset programs, the “protection” of forests and other areas also restricts or severely limits communities' management of their own territories, and often their sources of livelihood. This occurs by limiting or preventing their traditional uses of the forest and other areas, now subject to plans of non-intervention or management that must be adjusted to international standards, exogenous to the communities.

In this perverse dynamic, communities not only can have their territory contaminated or partially destroyed; they can also be displaced or forced to migrate due to the lack of livelihood possibilities in other territories that will be used to “offset.”

### **Metrics, monitoring and control**

Another collateral effect of these programs is the increase in quantity, precision and technology of surveillance instruments; which are used to explore various kinds of resources—from aquifers and mines, to plants that could be subject to biopiracy—as well as for other undesirable uses.



In order to get to “zero,” everything must be measured. In the case of forests and other live ecosystems, this is very difficult because of natural dynamics (for example, forests breathe: they absorb but also emit carbon dioxide), and also because all forests are inhabited. To measure accurately and with minimal uncertainties or variables—in order to “monitor, verify and report,” but mainly to sell—life gets in the way.

Instead of accepting the dynamics of life and understanding that it is impossible to subject basic cycles to market demands, REDD systems have invented expensive and sophisticated ways of measuring “carbon permanence,” in order to put a price on it for bonds and projects, etc. It is not about the permanence and wellbeing of people, communities and natural systems, but rather about reducing everything to a single measure: carbon dioxide and carbon credits equivalent, which according to the dominant mentality will be the new measure of all things. (2)

In order to measure the immeasurable (soils, water, forests—which are alive, dynamic and interacting systems and therefore not measurable), REDD promoters have developed a combination of three tools: high-resolution satellite systems; infrared photographs or videos from fixed-wing *drones* that can produce even three-dimensional reconstructions; and teams of individuals who go to places to corroborate and complete data on vegetation and soils, and to establish GPS reference points. These local teams, generally comprised of people from the very communities that will be affected, have unique knowledge of the area, but do not necessarily understand the implications of their participation in these tasks. There are extreme cases, such as what happened in Chiapas, Mexico in 2011 with the Lacandona community. Members of one of the indigenous communities to be affected in the area were paid a minimum amount to guard the chosen area with guns, and make sure nobody entered, even blocking passage of members from other indigenous groups from the same place.

This form of “monitoring” to comply with REDD project requirements, also facilitates new forms of biopiracy—since vegetation can now be detected in detail, and paired with local knowledge on its uses and exact location. (3) Combined with the information in gene banks and genetic sequencing databases—which contain data on tens of thousands of plant varieties and species—and coupled with the possibility to reconstruct genes through synthetic biology, this allows for kinds of biopiracy not even considered in international standards, like the Nagoya Protocol of the Convention on Biological Diversity (CBD). This UN Convention, with the pompous name, “*Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization*,” is a legally binding instrument established after many years of negotiations. It is supposedly meant to regulate access to genetic resources and ensure the sharing of benefits obtained from their use. Even before the appearance of these new technologies, the Protocol was already unable to prevent true biopiracy, which is the privatization of resources wherein the State or communities do not receive a percentage.

Furthermore, it does not take into account new forms of digital biopiracy that are replacing the conventional ones.

### **Digital Biopiracy, Synthetic Biology and New Threats**

Until a few years ago, companies needed a physical sample of a plant, insect or microorganism in order to analyze and patent it. Now, with the lowering costs of



genetic sequencing, and the fact that the vast majority of information exists in easily accessible databases; companies, researchers and even “biohackers” can download this information online and reconstruct genetic sequences of interest in a laboratory. People have already and repeatedly built entire organisms, such as viruses. It is increasingly easy to do so, and increasingly harder to know who is doing what. Bacterias, yeasts and more complex organisms have also been built synthetically, but this is still a slow process with uncertainties. This does not stop the development from continuing at a dizzying speed, and there is even an initiative to construct a synthetic human genome in the next decade. (4)

Gene banks related to food and agriculture, most of them public or semi-public, have initiated a global collaboration (DivSeek) to share all the information from the different banks. Their main intention seems to be to facilitate or sell access to the private sector and transnational companies; as well as to avoid even minimum regulations to publish and state the origin of samples, or to “share benefits;” as required by the FAO's International Seed Treaty (5) and the CBD. *La Vía Campesina* (6), the Third World Network and other organizations warned against this initiative. (7)

This kind of digital biopiracy is not even considered in the CBD's Nagoya Protocol on Access to Genetic Resources—an agreement which nonetheless seems designed more to give companies legal certainty over their patents and investments, than to enforce and recognize the rights of indigenous and farming communities, and their enormous historical and present contribution to the sustenance of the whole world. (see article in the bulletin on the Constitutional Court ruling in Guatemala). This can only occur by respecting all their rights and supporting them to remain in their territories, not through bilateral contracts between a community and a company.

### **Synthetic biology also encompasses many other threats**

“Genome editing” is now the main instrument that transnational pharmaceutical, agribusiness and timber companies use, thus named in an attempt to dissociate new biotechnologies from the generalized resistance to transgenics. However, all synthetic biology techniques are forms of genetic engineering; some make even more disturbing interventions than previous transgenics.

One of these applications, the construction of “gene drives,” is potentially more devastating than everything we have seen until now. It could be used to extinguish entire species or manipulate ecosystems, which is why it is called “ecosystem engineering.” This system ensures that a manipulated wild organism's offspring go against the natural laws of heredity (wherein each parent contributes 50% of genetic information), and instead transmits only the manipulated gene or genes to all its descendants. This would be a way to genetically manipulate wild (uncultivated) organisms and let them reproduce indefinitely. Technically, this technology has already been successfully applied in laboratories, and some of its developers have called for it not to be released. In nature, there will surely be many factors, mutations and other interactions that could keep this technology from thriving. However, it is extremely worrisome that its designers' intention is explicitly to wipe out species they consider to be “pests,” which is highly risky and could throw species and entire ecosystems out of balance. (8) Furthermore, the potential to use this technology for warfare or hostile





ends, to inoculate pests or even human diseases, is very high. (9) For these reasons, the Convention on Biological and Toxin Weapons already has this technology on its agenda.

The ETC Group and other organizations believe that this technology should be banned or at least placed under international moratorium. This issue will be discussed at the 13<sup>th</sup> Conference of the Parties of the Convention on Biological Diversity in Cancun, Mexico, in December 2016.

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- (1) [http://wrm.org.uy/wp-content/uploads/2016/04/RioTintoBiodivOffsetMadagascar\\_report\\_EN\\_web.pdf](http://wrm.org.uy/wp-content/uploads/2016/04/RioTintoBiodivOffsetMadagascar_report_EN_web.pdf)
- (2) On this topic, it is very useful to read the essay *La métrica del carbono: ¿el CO2 como medida de todas las cosas?* de Camila Moreno, Lili Fuhr, Daniel Speich. [https://mx.boell.org/sites/default/files/carbon\\_metrics-impresion.pdf](https://mx.boell.org/sites/default/files/carbon_metrics-impresion.pdf)
- (3) Silvia Ribeiro, 2011. REDD, satélites y biopiratería. La Jornada, México, Mayo 2011. <http://www.jornada.unam.mx/2011/05/07/opinion/027a1eco>
- (4) Silvia Ribeiro, 2016. ¿Seres humanos sintéticos? La Jornada, 28/5/16. México. <http://www.jornada.unam.mx/2016/05/28/opinion/021a1eco>
- (5) The FAO Seed Treaty: <http://www.fao.org/plant-treaty/en/>
- (6) Press release from La Vía Campesina: <https://viacampesina.org/en/index.php/main-issues-mainmenu-27/biodiversity-and-genetic-resources-mainmenu-37/1877-peasants-rights-belong-to-peasants-don-t-take-a-single-one-away>
- (7) The Third World Network (TWN) has published a series of critical documents about the DivSeek initiative <http://www.divseek.org/>, available at [www.twn.my/DivSeek.htm](http://www.twn.my/DivSeek.htm)
- (8) Summary of gene drives and their implications <http://www.etcgroup.org/es/content/impulsos-temerarios-los-impulsores-geneticos-y-el-fin-de-la-naturaleza>



## **Peoples' traditional knowledge embedded in their territory versus “traditional knowledge” in the UN Convention on Biological Diversity**

Interview with Blanca Chancoso, Kichwa member of the Otavalo peoples and vicepresident of ECUARUNARI – the Kichwa Confederation of Ecuador.

*In order to advance the so-called new economy with nature, governments that are parties to the Convention on Biological Diversity created the Intergovernmental Platform on Biodiversity and Ecosystem Services. Promoters of the initiative want to reinterpret and capture biodiversity for markets and industry. The Platform also seems to be tempting some indigenous groups to embrace this concept of biodiversity, with its promise of recognizing “traditional knowledge”—even though this recognition does not fully reflect indigenous peoples' ties with their territories. What do you think of this tendency — gathering traditional knowledge to benefit markets and industries? Is it compatible with indigenous peoples' worldviews and traditional systems of knowledge?*

Regarding traditional knowledge, biodiversity and our vision as indigenous peoples, it is first important to clarify that we do not accept that these are “resources.” All that is nature is not a resource; these are living beings, they are animals, they are plants, what people call fauna and flora. All of these are “beings of nature,” and this is how we share and believe it is.

We have found that all beings — animals, rocks, forests — have a duality in their effects, male and female. Even in the case of waterfalls, there is a male waterfall and a female waterfall, feminine and masculine; the same is true for rivers and rocks, they have that same duality.

And that is how we cure a person's health. If a woman is ill and she needs urine therapy, it would have to be with a man's urine, because that will produce balanced healing. If a man were ill, healing would be done with female urine. This is how it works, whether for a poultice (herb- and plant-based preparation placed on external parts of the body) or for any other treatment; it is done in this way. Likewise, in this vision of the masculine and feminine, one seeks balance between warm and cold. Warm does not mean that something has to be hot in terms of temperature, it is called warm if it has a specific component. So if you were sick with a warm temperature, and were given a plant you didn't know about but that is warming, it would complicate the situation. Then you must balance it with another plant that we call cool, in order to bring the body into balance.



This is why our contact with nature is always on these terms, in order to discover and to gain knowledge. It is not enough to say, for example, that *llantén* (a medicinal plant) “is good for this.” I must also have knowledge to first balance the internal and external body temperature. The same is true for plants in nature. This is our vision, and this is how we live. Wood or animals are other beings that complement people. That is why we say that humans are nature, humans are part of biodiversity, like it or not. If you, as a human, speak of biodiversity in the third person—as if it were something not a part of you—then who is it that feels it is speaking? Who are you talking about when you say biodiversity? You talk about plants and about animals, but where are the humans? So what is the importance of biodiversity for a human being who does not feel part of it? How will he or she defend it?

But in indigenous peoples' worldview, I too am nature. I am made of flesh and bones and am human, but I am of nature and I live with her. I need a plant just as much as it needs me; and the river needs me and I need the river. Nature and I mutually complement each other. This is the case with all beings. Take a rock for example: if you see yourself as human, and nature as separate, you will see it as a rock without significance, except perhaps for its use in building, in construction or for decoration. So it does not have much value, or perhaps you give it economic value because it is used in construction. You place an economic value on it, only if it is good “for” something. In contrast, indigenous peoples do not see a rock for its economic value but for the value of life, because the rock has life. There is the masculine and the feminine rock. Depending on how we want to use the rock, we seek one out that complements us depending on that specific use; that is, I need the rock to grind something, but the rock can also help me with my health—so I will use a male rock or a female rock depending on what I need and on what I need it for. There are also energetic rocks that can help or protect me. Just by rubbing myself with it, the rock can take away bad energy that I have picked up somewhere, or it can protect me from bad energy. So it is not economic value, but the value of connection between humans and this being of nature. Likewise, there are trees that can give me energy. Not only can I eat or drink of it [to cure me], the tree itself is also energetic; it is a sacred tree because it is energetic, and this is not turned into economic value. It is simply sacred, and it is like my protection.

That is the difference and the importance for us. When we hear a *yachay* [spiritual master or shaman] from the rainforest or mountain say that a certain medicinal plant was once very good but no longer works, why is that? If that place is contaminated, the plant will also be contaminated and cannot be used in the way it was before, and in the way it is needed. The same is true for food. Food—where does it come from? From mother earth. If mother earth is clean, the food is healthy, but if mother earth is sick, the food will also be sick. When it is shared with humans, we will get sick. We will be very weak and will not have defenses, and I may think that the food is no longer good for me, or it is harming me. But it is not that the kind of food harms me; rather, it depends on where it comes from and how I take care of that place. Therefore it is important to protect and heal the earth in order to maintain biodiversity, because the earth is where all the other beings—plants, mountains, water—are born. It is in mother earth. If the earth is not healthy, the rivers and the plants will no longer help me, and then where will I go as a human being? I will have to leave that place. Or similarly, when we go to cities, we do not find that place and so our lives change, our health changes, our food changes; because I no longer have the sustenance of that place. I change that place for a



room—perhaps a dark one, or any kind—and I have no place to grow food, to feel that sharing with mother earth, with nature, with everything that is biodiversity.

So we believe that biodiversity should not be seen as a “resource,” because by calling it so, one already places an economic value on it; and according to that value it is classified and easy to sell. Then comes the destruction. But if we were to talk about a being, I believe this being would not be for sale. And so it is worrisome that successive governments have labelled that which they are trying to extract as a resource, granting concessions and selling without taking into account that they are affecting human beings too—those who live there, and also those who are directly or indirectly affected elsewhere. Because the land provides food for the whole world. Food and other products reach humans wherever they live through export and import. When that food reaches humans, if it is good it will do me good, and if not it will affect me in a negative way. But what does it matter to the government if it does me good or harm? What matters to the government is that it has already sold the resource. It does not care about humans; and even less so in our case. If they sell our sacred places it is like desecrating them, they would be desecrating the most important part of our communities, and then we will not even have a place to go. In the Eurocentric vision of a non-indigenous person or mestizo, the only sacred space is a church, a temple with images. That is a sacred place. But for us, even though we also share those spaces in some ways, a sacred space is there in nature, it is there in the mountain.

***The State and companies promise to share benefits. What is your opinion of and experience with such promises to “share benefits?”***

They are not sharing benefits; they have never shared any benefits. If there has been sharing, it would be sharing in the sense of what the bible says that Judas did; that he sold their master. Judas would be sharing with another Judas, but in exchange for what? To leave me without a place to live? So first of all he would not engage that deal. But it's possible that communities could be tempted by this “sharing.” But what are they sharing? So far they have taken away the oil and they have not shared. They are taking over places for mining, and the country is in more debt, yet villages are more neglected.

The hospitals they mention as part of improvement projects are not in indigenous communities. They are not in remote areas, but in the city. And what's more, even if I make the effort to go to the city, there is a new program where you no longer go to the hospital but request an appointment by phone. Even patients with emergencies have to request an appointment. If they manage to answer the phone and you request an appointment, when they respond, they will give you an appointment one or two months later. It is not immediate to human need, but rather based on the way they plan. So even there, we can say that there is no sharing. We can see this is not even the case with the so-called “improvements in the healthcare system” that the government has talked up so much. We do not have access to those improvements because they have put in place a system with obstacles for us.

In education what can we share? They have closed community schools, and where have they placed the MIES buildings (Ministry of Economic and Social Inclusion)? They are not in the communities that need them. They are far away from where people live and they isolate students from their families. They take them away from a family situation of closeness, and especially place small children at risk. In many of our communities



that are close to towns, people often prefer to send their children to schools there, but not the youngest ones. They send children who are already in the third grade or so—eight- or nine-year-olds—because they can take care of themselves better. But it is dangerous for a five- or six-year-old; there is no school transportation to pick them up from the community and take them to the MIES center. The closest one is an hour away, by foot. But in fluvial areas like the Amazon, in order to get to the riverbank, how many hours do they have to walk? And once they reach the riverbank it's another three or four hours by canoe to get to the MIES center; and that puts children at risk. And the more time children spend traveling to their schools and back, the less time they spend in communities; so they have less time for learning and education processes in the community itself. So what do we gain when we say that from now on we will share in education, in health or to develop some knowledge initiative that a community can promote? This has not happened at all. They have harmed us. At least it does not feel like sharing.

Another way they say they have shared is through the Socio Bosque program. You become a partner by providing your land, and the government or REDD (Reducing Emissions from Deforestation and Forest Degradation) puts up the money. But you are practically mortgaging your land for 10 or 20 years, so that you can't touch it during that time. But who takes the profit when the trees are cut? The government takes 70% and I get 30% for having taken care of it, and on my own land! That is not sharing. What's more, if some external situation out of my control occurs, like rain or thunder, or someone burned down the forest, or let's say it "accidentally burned down," it is not that I did not take care of it. But that is how the government sees it and it is one more reason to extend the agreement. Apparently, they write off the investment Socio Bosque makes under the following condition: "we forgive you and we will not take legal action, but you have to sign another agreement for 20 more years for the land." And thus they continue to give you money for 20 more years. Between the previous 20 and the 20 now, they are controlling the land for 40 years. So with that system, and the experience we have been through, their "sharing" forces me to give up the land to them and leave it behind. People should give this a lot of thought, and I would even say this to my own brothers and sisters, members in the communities and indigenous peoples. One must think in order not to fall into this temptation. Because I can accept a million dollars today, thinking that I need it now perhaps because of an illness or a personal debt. I take the million dollars and give them the land. But the money disappears quickly, and when the million dollars run out and I return to my land, I have nowhere to live or even shelter myself. But on the other hand, if I make a little more effort, I will not have a million dollars. But the land will always provide for me, and I will be able to share with my children and with my children's children forever. But I cannot do that with money. I will use all my money today, and I will not even have anything to give to my children, much less to my great-grandchildren. Absolutely nothing is left.

These are the concerns and reflections that I can share with everyone. I believe there is still much to talk about; to present this way of seeing biodiversity as nature and not as a thing or an external resource. As humans we are part of that biodiversity, part of that nature. So I am also affected because I am inside it. If only we would see it this way, we could feel it, and we would value nature in another way.



### **Trade deals threaten peasant farmer's stewardship of seed biodiversity**

Skilful selection and nurturing of the seeds best suited to a particular location are at the heart of peasant farming and agroforestry systems. The resulting agrobiodiversity of hundreds of thousands of crop varieties and animal races found in peasants' fields around the globe provides the corner stone of the world's food system. Peasant farmers and the local varieties that they developed are still feeding the majority of us. By contrast, industrial agriculture dominated by a small number of transnational corporations has drastically reduced the agrobiodiversity of crop varieties grown. It has also encroached rapidly on the land that peasant farmers rely on to produce food and on peasants' access to the diversity of seeds which forms the basis of peasant farming and agroforestry systems.

For millennia farmers have saved, exchanged and replanted seeds year after year, and this practice has created the enormous agrobiodiversity that the world now has. This has always been a thorn in the side of the corporate seed industries that are set on controlling the global seed market, and thereby reducing seed diversity. They want farmers to buy their seed every year, and are continuously pushing governments to adopt ever more stringent laws and treaties to force farmers into the corporate seed market.

One of the main avenues to control farmers' access to seeds are trade agreements. Over 20 years ago, corporate seed corporations successfully lobbied for governments to include the obligation into the World Trade Organisation (WTO) agreement that all countries provide for intellectual property rights on plant varieties. This basically means that companies can claim ownership rights over the seeds they develop and the genetic materials they contain, thus preventing farmers to do what they have done for millennia: save, exchange and improve seeds. This was an important starting point for the corporate seed industry and they haven't stopped pushing their agenda since then. Their next objective was to get countries to join UPOV, the Union of Protection of new Varieties of Plants, a convention that grants intellectual property rights over seed varieties. At the same time that corporate seed companies were lobbying for intellectual property rights on plant varieties to be enshrined into the WTO agreement, the UPOV convention was also amended. In 1991 UPOV eliminated the right of farmers to save and exchange seeds that were "protected" – owned by companies that had acquired UPOV titles on them. In combination, these two developments provided the perfect route for companies to secure more control over the world's seed supply.



## **Bilateral and regional trade deals used to further strengthen corporate control over seeds**

In the past decade, bilateral and regional trade agreements have been used to further strengthen corporate property rights over seeds. In July of this year, GRAIN published a new dataset with a list of trade agreements that do precisely this. (1) Trade deal after trade deal is signed by governments to include requirements that countries subscribe to the corporate UPOV rules or otherwise strengthen intellectual property rights over the biodiversity in their countries. The requirements written into these trade deals therefore amount to nothing less than legalised theft, given that these corporate seeds were originally developed from seed varieties developed and nurtured by peasants.

Among the most recent bilateral and regional trade agreements that further restrict farmers' control over the seeds they cultivate are:

- The EU-Canada Comprehensive Economic Trade Agreement (CETA), which is currently on a bumpy road towards ratification. It gives seed companies in Canada and the EU new powerful tools to enforce intellectual property rights against farmers through seizures of seeds and injunctions based on mere suspicion of infringement, including seed saving.
- The EU Economic Partnership Agreements (EPAs) with African countries which commit all signatories to hammer out new standards on intellectual property rights, including on seeds.
- The US government, in the meantime, is regularly pushing its trade partners to live up to their intellectual property rights commitments. In a recent report it criticises Chile and Colombia for failing to adopt the most recent 1991 version of UPOV (UPOV91, which eliminates the right of farmers to save and exchange protected seeds), as they agreed to do under their 2003 and 2006 bilateral trade deals with the US government.
- The Trans-Pacific Partnership (TPP) binds 12 countries from Asia and the Americas to join UPOV 91. This, in turn, will oblige many of them to clamp down on farmers' ability to save seeds from protected varieties. The US biotech and seed industry believe that this Treaty also opens the door to the patenting of plants more generally and they call TPP the "greatest tool" yet for imposing higher intellectual property standards not only in Asia, but globally.

There have been some efforts at the UN level to protect the rights of farmers and local communities over the biodiversity that they have nurtured over centuries. One is the Seed Treaty negotiated and agreed 15 years ago at the Food and Agriculture Organization of the UN (FAO). It includes a clause on Farmers Rights that recognises the right to "save, use, exchange and sell farm-saved seed". At the same time, however, the Seed Treaty also recognises corporate intellectual property rights on seeds. At a recent official meeting about the topic, held in October 2016 in Indonesia, the peasant movement *La Via Campesina* expressed strong disappointment that after 15 years, the Treaty has done little to implement and secure farmers' rights. The movement called, again, on Treaty member countries to stop negotiating intellectual property agreements and laws that undermine and criminalize peasants' rights to seeds. (2)



Another UN treaty dealing with the issue is the Convention on Biodiversity (CBD) which adopted the Nagoya Protocol in 2010. The Protocol is focused on access to, and the sharing of benefits from biodiversity. In theory, this protocol provides for prior informed consent and a protection of the rights of local communities. In reality, however, the Protocol has been criticised for reducing seeds to a mere commodity rather than regarding them as an essential element of people's cultural heritage. In June 2016, a Constitutional Court ruling in Guatemala suspended the Protocol's implementation in the country (see article in this bulletin), in large part as a result of campaigns by indigenous peoples' and farmers' organisations who argued that the goal should be to protect biodiversity, not to commercialise it. (3)

The good news amidst the decade-long aggressive corporate encroachment on farmers' control over the seeds they use is that opposition against trade and intellectual property right deals is growing by the day, and mobilisations against the privatisation of biodiversity are a central part of this opposition. In many countries, such as in Chile, Argentina, Colombia and Guatemala, social movements have successfully challenged new seed laws. In others, new trade deals are increasingly being contested from the streets. Here lies our strength to keep biodiversity in the hand of indigenous peoples, peasant farmers and local communities.

### **GRAIN**

<https://www.grain.org/>

- (1) GRAIN (2016). New trade deals legalise corporate theft, make farmers' seeds illegal. <https://www.grain.org/article/entries/5511-new-trade-deals-legalise-corporate-theft-make-farmers-seeds-illegal> .The data set is available for download at: <https://www.grain.org/attachments/3939/download>
- (2) La Via Campesina and ITPGRFA (2016). At Consultation on Farmers' Rights, La Via Campesina demands a working group in the Treaty comprising peasants' organisations, to help implement peasants' rights. <https://viacampesina.org/en/index.php/main-issues-mainmenu-27/biodiversity-and-genetic-resources-mainmenu-37/2149-itpgrfa-at-consultation-on-farmers-rights-la-via-campesina-demands-a-working-group-in-the-treaty-comprising-peasants-organisations-to-help-implement-peasants-rights>
- (3) Karen Hansen-Kuhn, IATP (2016): Seeds of Corporate Power vs Farmers' Rights: We need to start tilting the field back in favor of farmers and the environment. <http://www.iatp.org/blog/201609/seeds-of-corporate-power-vs-farmers-rights-we-need-to-start-tilting-the-field-back-in-fa>





### **"Reasons for Taking Legal Action": New Resistance Movements to Defend Guatemalan Indigenous Communities' Heritage**

Guatemala is located in the heart of Mesoamerica. Its enormous cultural diversity is a historical legacy of the Mayan culture, in which indigenous communities have developed systems of organizational thought and self-government—always tied to knowledge based on their worldview, spirituality and the continuous maintaining and renewing of their relationship with Mother Earth.

At present, communities face a serious threat of new land grabs related to the use of biotechnology, as well as socio-economic requirements that homogenize a single way of understanding tradition and culture — all in order to plunder and sell genetic diversity, seeds, flora, wildlife, etc. This has caused the dramatic and irreversible loss of ancestral systems, agro-biodiversity and the traditional knowledge associated with these systems and diversity; a situation in which the transnational market economy logic strategically guarantees legal actions for the legalized dispossession of communities.

Guatemalan ancestral authorities, farmers, peasants, midwives and spiritual guides were motivated to defend the organizational and governmental sovereignty of indigenous communities. In coordination with member organizations of the National Network to Defend Food Sovereignty and other social organizations, they met to address the implications of the economic, political and legal commitments the Guatemalan government has assumed vis-à-vis other States. These include treaties, agreements, or international protocols which, when implemented, translate into violations of human rights and the collective rights of indigenous peoples.

It was no longer possible to allow the State to facilitate the plunder and dispossession of indigenous communities' lands—especially since these actions are no longer focused solely on oil and mining projects, hydroelectric dams, and industrial palm and sugar plantations (among others), but also seek to take away seeds, genetic diversity, traditional knowledge and biodiversity.

In addition to the government's actions, there are research centers that favor biotechnology, and thus pharmaceutical and agribusiness companies. In 2014, these companies jointly promoted a series of congresses, seminars, and workshops where they argued for the need to “protect” and “facilitate” the conditions to approve several legislative initiatives on behalf of Guatemalan indigenous peoples. The Congress of the



Republic of Guatemala immediately provided the conditions for their approval. Such is the case with the Law on Plant Varieties, and the Nagoya and Cartagena Protocols.

This also facilitates the conditions, already well-established by the government and transnational companies, and provides a roadmap, for dispossession. Government institutions serving market interests have moved to approve the regulation on Genetically Modified Organisms, the national biosecurity policy on Genetically Modified Organisms, and the policy project on Access to Genetic Resources and Traditional Knowledge. Each instrument focuses on arguments that the State has sovereign access to use all natural "resources," failing to consider indigenous communities' systems of government and everything that constitutes their collective heritage.

This series of legal instruments no longer considers the collective rights of communities to value, use, manage, exchange and locally control the elements of nature—rights which are inalienable, unassailable and imprescriptible.

Therefore ancestral authorities from the four directions, through consensus, arranged to resist this new form of silent dispossession, which is already affecting and altering life in the communities. They filed an action of unconstitutionality against Decree 6-2014, which approves, at the national level, the “Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization.” (1) The action denounces this instrument for violating indigenous peoples' sovereignty by validating “legalized” dispossession; as it authorizes patents, land concessions, royalties and intellectual property rights on genetic diversity and traditional knowledge of native seeds, medicinal plants, handicrafts and gastronomy. An important motivation behind the action against the Constitutional Court of Guatemala is in the demand for the right to free, prior and informed consultation, and respect for systems of organization, production, safeguards and defense of community livelihoods.

This action resulted in the Constitutional Court of Guatemala provisionally suspending Decree 6-2014 (which approves the Nagoya protocol) on June 16<sup>th</sup> of this year. (2) The State now cannot continue approving laws, agreements, regulations and policies related to the approval of requests for access to, or patent authorizations on, intellectual property rights that involve genetic diversity and Guatemalan indigenous communities' traditional knowledge. This is also a victory for communities throughout the country, who succeeded in getting the State to respond to the national lawsuit led by their ancestral authorities.

In this way, resistance movements defending life and territory have shown that peaceful, national-level mobilizations have succeeded in repealing the 2014 Law Decree 19-201, or the Law on Plant Varieties (3), more commonly known as the Monsanto Law (4). This is a clear example of unity within diversity, since there was broad participation of social groups, including peasant, indigenous and environmental movements and organizations, among others. (5)

For many indigenous communities, this action represents the preservation of ancestral systems, guaranteeing life and food sovereignty. Thus the struggle to defend territories continues in Guatemala, and communities will keep building ties of solidarity; not as a mere “folkloric” expression or national statistic, but as the face of struggle, resistance



and denunciation of the dispossession of ancestral and territorial identity, as *Aj ral Ch'ooch'* (Children of Mother Earth).

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- (1) The text of the Nagoya Protocol is available at: <https://www.cbd.int/abs/about/default.shtml> and the text of the Convention on Biological Diversity is available at: [www.cbd.int/intro/default.shtml](http://www.cbd.int/intro/default.shtml)
- (2) Access the Unconstitutionality Ruling of Decree 6-2014 on the Nagoya Protocol here: [http://www.biodiversidadla.org/Objetos\\_Relacionados/Resolucion\\_de\\_Inconstitucionalidad\\_ante\\_aprobacion\\_de\\_Protocolo\\_de\\_Nagoya\\_-\\_GUATEMALA](http://www.biodiversidadla.org/Objetos_Relacionados/Resolucion_de_Inconstitucionalidad_ante_aprobacion_de_Protocolo_de_Nagoya_-_GUATEMALA)
- (3) The Law on Plant Varieties threatened food sovereignty and life, by opening the doors to companies' privatization of native seeds (including maize and bean varieties) and to the introduction of transgenic seeds. It was part of the commitments the Guatemalan State made in the framework of the Free Trade Agreement between the United States and Central America, signed in 2005.
- (4) "Lucha por la defensa de nuestras semillas, derogación total del Decreto 19-2014" en: [www.redsag.net/files/Boletin\\_tres\\_versin\\_final.pdf](http://www.redsag.net/files/Boletin_tres_versin_final.pdf) y "Postura de las autoridades ancestrales ante los organismos vivos modificados" en: <https://comunitariapress.wordpress.com/2016/07/23/postura-de-las-autoridades-ancestrales-ante-los-organismos-vivos-modificados/>
- (5) <https://www.facebook.com/bancada.winaq/posts/1346052475462723>



### **The Brazilian Biodiversity Law: Progress or Threat?**

On May 20<sup>th</sup> 2015, then Brazilian president, Dilma Rousseff, approved Law 13.123/2015, which was published as the new Brazilian Legal Framework on Biodiversity. In an interview given minutes before the launch ceremony, the Minister of the Environment at the time, Izabella Teixeira, said that about 40 country governments had already requested a copy of the Bill, as if this "proved" it was an innovative law. However, human rights organizations and traditional, indigenous and peasant community movements and organizations in Brazil have strongly challenged the law; in particular because it denies the rights of peasants, farmers, indigenous peoples and traditional communities, and benefits above all pharmaceutical and agribusiness companies.

#### ***Creation of a law that favors business***

Unfortunately, official discussions on the protection of the genetic heritage and associated traditional knowledge occur in spaces very distant from the reality of affected



people. In the preparation of Law 13.123/2015 and Bill 7735/2014 which preceded it, there were hundreds of meetings and discussions in Federal Government offices, behind closed doors, with pharmaceutical, chemical, cosmetic and seed industries; these meetings were organized under the title of the Business Movement for Biodiversity (MEB, by its acronym in Portuguese). At least three of the thirteen participating companies have been sued for practicing "biopiracy."

It is important to note that these meetings took place before the draft law had been reviewed by the Ministries of Environment (MMA), Industry and Commerce (MDIC), and Science, Technology and Information (MCTI). The National Council on Sustainable Rural Development (CONDRAF), the National Commission for Agroecology and Organic Production (CNAPO), the National Commission on Indigenous Policy (CNPI) and the National Commission on Traditional Peoples and Communities (CNPCT) were not consulted. All of these are official spaces that represent farmers, peasants, indigenous peoples and traditional peoples and communities, spaces provided by the Federal Government itself.

The lack of dialogue with a broad majority of civil society revealed the interests behind the proposed regulation on access to the genetic heritage and associated traditional knowledge. This became even clearer when civil society gained access to the explanatory memorandum of the proposal, and found that the principal reason behind the proposal was that existing regulations were ineffective at imposing "a set of restrictions on access." (1)

Thus, facilitating companies' access can mean nothing other than diminishing the rights and sovereignty of those who have traditional knowledge about the national genetic heritage. This is clearly why the proposal was not previously discussed with those who bear this knowledge; this is happening in one of the most diverse countries in the world in terms of plant and animal species.

### ***Content of the Law***

In summary, the law seeks to facilitate private sector access to the diverse genetic heritage, such as to traditional seeds or medicinal plants. This is explicit in cases where it should be obligatory to obtain free, prior and informed consent from those who possess this traditional knowledge. However, the law decouples certain genetic heritage from traditional knowledge, as if the majority of living beings in nature were untouched by humans; as if they had not interacted with indigenous peoples for thousands of years. In this sense, the law creates separate categories of traditional knowledge: knowledge of identifiable origin and of unidentifiable origin.

In the latter case the company can access the genetic heritage, without having to prove a connection between its research and the "product" it is trying to develop, or to pre-existing traditional knowledge; or they can use certain traditional knowledge, claiming that its origin is unidentifiable.

In both cases the company is exempt from the obligation to obtain free, prior informed consent. This violates:

- The right to Free, Prior Informed Consent, provided in ILO Convention 169 on Indigenous and Tribal Peoples;



- The rights provided in articles 8 "j" and 10 "c" of the Convention on Biological Diversity;
- The rights provided in article 9 of the *International Treaty on Phylogenetic Resources* for Food and Agriculture; and
- It conflicts with the Nagoya Protocol itself, which Brazil had signed but not ratified prior to the Law coming into effect.

It is important to state that neither the law, nor the decree regulating it (2) solves the historical problem of traditional knowledge belonging to more than one indigenous group or peoples, or to traditional, farming or peasant communities. This can trigger conflict between said groups. Furthermore, there is no legal provision for the right to prohibit companies' access; only the possibility for companies to respect the content of community protocols.

In terms of the law and decree, community protocols are documents that farmers, indigenous peoples, or traditional peoples and communities develop through their own customs, traditions and practices; and which are valid as procedural rules in cases of access to associated traditional knowledge.

Furthermore, companies have the obligation to share benefits if they obtain some "financial benefit" from this use; such as a new drug, a cultivated variety or seed, transgenics or cisgenics, etc. In such cases the company may or may not be subject to benefits-sharing requirements.

The law creates a series of mechanisms to exempt companies from benefits-sharing, such as:

(I) decoupling genetic heritage from traditional knowledge; (II) creating categories like associated traditional knowledge and unidentifiable origin; (III) Restricting benefit-sharing to what is called 'finished products', if these are the main value-added element of the product; (IV) exempting small or micro enterprises from benefits-sharing; (V) exempting benefits-sharing in cases of local or locally-adapted native seeds and varieties that are part of international treaties on food and agriculture.

And in spite of everything, if the company were forced to share benefits on the genetic heritage, it would be at most 1% of the benefits generated, a percentage that can be reduced to as low as 0.1%. Furthermore, it would be at the company's discretion to share the value in money, or through social projects or other non-monetary means.

Another point of concern is the composition of the Genetic Heritage Management Council. This should have been a step forward, since it was open to civil society, especially peasants, and traditional peoples and communities. However, those individuals hold a minority of seats, while the majority unfortunately goes to the federal government and its ministries, companies and members of scientific academia.

### ***Why the interest in access to genetic information?***

This law is the first step to allow the patenting of native products of Brazilian biodiversity and the knowledge arising from scientific research. Its approval comes in the midst of an international discussion on new genetic engineering technologies, and



the regulation of new products created through synthetic biology—the bases of the rumored fourth industrial revolution.

Therefore companies' interests were not only to avoid fines or clean up their image in biopiracy cases; but primarily to make market prospects viable for a new series of products they use in their production, genetic information on biodiversity and new technologies.

### ***Progress***

The discussion process for this new law was marked by complaints about restrictions to participation by main stakeholders. This generated a large and unprecedented mobilization wherein farmers, peasants, indigenous peoples, traditional peoples and communities — with the support of over 150 movements and non-governmental organizations — carried out several demonstrations. In one of these directed toward President Dilma in 2015, they succeeded in obtaining three vetoes and a series of changes in the decree that regulated the law.

In spite of all the criticism that this law deserves — both because of how it was developed and because of its content — it does include new aspects that can be considered as progress.

Both the law and the decree recognize the right of farmers, peoples and communities to freely sell products of socio-biodiversity, and to use, preserve, manage, store, produce, change, develop and improve reproductive material that contains genetic heritage or associated traditional knowledge.

It also recognizes these groups' contribution to the development and conservation of the genetic heritage in any form of publication, use, exploitation and dissemination. And it indicates the origin of access to the associated traditional knowledge in all publications, uses, exploitation and dissemination. And it gives them access to samples of genetic heritage, kept in ex situ collections in national institutions generated with public resources and the information associated with them.

Many of these items were secured only as a result of the joint advocacy and struggle of farmers, indigenous peoples and traditional peoples and communities.

Decree 8772/2016 which regulated the law, was one of Dilma Rousseff's final acts as president of the republic, before she was removed from office through the parliamentary coup authored by her vice president—who now occupies her former position. In this context, it is difficult to assess the outcome of this process. All the decrees Rousseff published in the final days of her management are undergoing review, in a process clearly oriented toward an ultra-neoliberal policy favoring agribusiness and international corporations in general.

### ***Conclusions – To Commercialize is not to Protect!***

Biodiversity protection should be the overriding focus of debates on access to the genetic heritage and associated knowledge. Protecting biodiversity is a consequence of protecting the ways of being, doing and living of peoples who have depended on it as part of their ancestral heritage. Unfortunately, the overriding perspective in the



Brazilian debates was focused on economically exploiting tangible and intangible goods, which little by little are becoming private property.

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WRM

(1) EMI n° 00009/2014 MMA MCTI MDIC. Paragraph 11, p. 2.

(2) Decree 8772/2016



### **Financial Mechanisms in the CBD: Opening the Doors to More Privatization of Biodiversity**

The CBD is a forum where organizations and movements can bring our positions and try to get them reflected in official documents. We do not believe the world will be changed at COP meetings (gatherings of CBD member governments), other CBD meetings, or any other United Nations Convention. It is a working space complementary to the daily work of resistance, mobilization, and transformation that we are doing at the grassroots level, together with local communities and Indigenous Peoples.

It is important to note that the CBD, like any other United Nations institution, does not reject, but rather embraces, what the United Nations Environment Programme (UNEP) calls the green economy. This economy does not challenge the power dynamics that cause, for example: inequalities, corporate control, concentration of power and highly destructive and polluting production. Rather, the green economy legitimizes such dynamics, claiming that a few "corrections" would suffice for the current model to continue working. According to this logic, if one invests in biodiversity protection (READ: opens new businesses), the conditions are created for said investment to incorporate environmental and social criteria. Additionally, an economic value—and a price—are placed on "environmental assets," and we see Nature not for what it is, but as "natural capital." The dominant model would continue to function, only now painted green and creating new businesses.



The CBD has opened the door to green economy instruments through discussions on what is now known as financing for biodiversity—that is, the funds needed to protect biodiversity. The claim is that a large amount of money is needed to conserve it, since biodiversity is being lost at an increasingly accelerating and worrying pace. While there are many causes, the dominant discourse emphasizes the fact that since biodiversity is part of the commons, nobody protects it. Furthermore, countries that contain this biodiversity (primarily in the South) do not have the financial resources to protect it; meanwhile, industrialized countries contribute less and less funding, despite of their international obligations in this area of finance. Hence, the private sector came to mind, but the private sector is not willing to finance if it does not receive a "return" on its investment. Therefore, it is necessary to find new financial mechanisms—some market-based—which enable this financing and new profits. (1) This is one of the prevailing premises of the CBD and other spaces.

The CBD considers these kinds of financial mechanisms to be "innovative." But that view is not universally shared, and these new mechanisms generated opposition because they are market-based mechanisms. At COP 12, people began to refer to these as financial mechanisms for biodiversity. (2) The CBD makes reference to six kinds of innovative financial mechanisms, of which the following stand out: environmental fiscal reform, payment for environmental services and biodiversity offsets. The CBD-created, *"High-Level Panel on Global Assessment of Resources for Implementing the Strategic Plan for Biodiversity 2011-2020,"* adds others to this list, including tradable permits and offsets. Several of these mechanisms pave the way for new businesses to generate significant economic resources, benefitting the very companies responsible for the destruction. Thus, instead of solving the underlying problem of biodiversity loss, they instead accelerate it. Furthermore, the idea of offsetting damages related to biodiversity is absurd and perverse, given the unique character of any species or ecosystem. (see also WRM Bulletins **198** and **181**).

Those who embrace the green economy and promote these kinds of mechanisms claim that they will be successful once biodiversity has an economic value placed on it; since without it, there can be neither prices nor business. The Aichi Goals (1, 2 and 20) (3) uphold the importance of economic value, which in real life is very difficult to separate from price. Pricing enables the Financialization of Nature (FN), new way to privatize Nature, as well as the means of existence and livelihood of numerous local communities and Indigenous Peoples who live in, exist and depend on it. FN is also trying to replace national and international legislation with payments; those who have financial resources prefer to pay for the damage they create rather than abide by laws that include sanctions. FN is always introduced—in pilot projects, instruments or politics—as something very technical and complex; in so doing, its promoters try to cover up the fact that it represents a different worldview than the one we have in communities, movements and organizations that work for social justice. By presenting it in this way, FN promoters obscure the discussion on the power relations that have caused the current environmental crisis, and the responsibilities for creating it. It is necessary to address both of these aspects in order to find real, long-term solutions to overcome the climate crisis.

Due to social movements' and some governments' strong rejection of the "innovative" financial mechanisms, there is no explicit reference to them in the agenda of the next COP 13 in Cancún, Mexico. We have observed, rather, that every time they face





criticism, promoters of these mechanisms try to disguise them by changing their names and incorporating them into other discussions. We have observed this with the concept of innovative financial mechanisms. (1) For now, proposals within the framework of FN have gained space in discussions on more general subjects, but this is not the case for each specific instrument and its conversion into a CBD-recommended policy. Nonetheless, organizations and social movements are on the alert, since these kinds of mechanisms will surely be promoted in the halls and parallel events at the next COP. In the face of this promotion, we must act to stop it.

After being discussed, negotiated and approved during the COP, proposed recommendations become the COP decisions. These recommendations are negotiated in previous meetings. Our analysis of the recommendations to be discussed during the next COP reveals there are references to financial mechanisms, such as REDD (2). We also find a resolution on restoration (4), which discusses developing accounting processes "that take into account the values of natural and semi-natural ecosystems and the functions and services they offer." Some countries that are part of the Biofin Initiative are already practicing this idea; (5) by including nature into national accounting systems, they put a price on it, which allows for the establishment of markets, pollution quotas, tradable permits and offsets.

Lastly, we find biodiversity incorporated in all sectors. The host government of the COP has even chosen it as the central theme of the meeting. (6, 7) By incorporation, this means the inclusion or integration of conservation-related actions and the sustainable use of biodiversity in productive sector strategies. (8) We also observe that incorporating biodiversity is a way to generate resources, as it could facilitate the use of offset mechanisms or create green markets. (9) The proposed resolution discusses the need to account for ecosystems and ecosystem services, and suggests that incorporating biodiversity helps generate resources. From paragraphs 70 to 81, there is an ode to the business sector. The parties are invited to encourage the business sector to generate and evaluate information on its impacts, and to use offsets and other mechanisms, such as natural capital protocols. In short, at no point does it mention determining responsibilities, applying sanctions, or eliminating any kind of activity that destroys biodiversity.

The prevailing logic is to encourage voluntary measures and to utilize mechanisms that favour the creation of more businesses. It is similar to the logic that sustains the FN, serving to perpetuate the causes of biodiversity erosion and loss. The CBD is missing a great opportunity to incorporate biodiversity in all sectors, in such a way that structural changes would ensure its survival and recovery.

It is necessary for social movements and the State to definitively attack the causes of biodiversity loss and degradation. At the heart of these struggles is the defense of community territory, culture and identity as the key to strengthening local initiatives. Around the world, local communities and movements are developing thousands of initiatives that we must strengthen. One of these is food sovereignty—based on diverse systems managed by farmers and indigenous groups, in which they produce food and other goods for local markets. Thus, it is vital to fight for land to be in the hands of small-scale farmers and Indigenous Peoples, because food sovereignty is impossible without control of the land. We must continue to strengthen communities' and Indigenous Peoples' control of forests and biodiversity through community governance



proposals. As our research of concrete experiences has shown, community forest governance is a proposal that protects, conserves and improves biodiversity; it strengthens historical and collective rights, favours community control and guards against deforestation—thus making it a real solution in the fight against climate change. It is equally important to strengthen local markets as a tool to reduce consumerism and support local economies. These in turn help improve equity and create many jobs with dignity, in contrast to the actions of transnational corporations. In many of these proposals it would be enough for the State merely to reassign where resources go, instead of initiating discussions and proposals for new financial mechanisms.

As an international space where many of these proposals are discussed, the CBD must steer clear of false solutions. It must respect its founding principles. It must respect and more strongly promote the rights of local communities and Indigenous Peoples. The CBD should not favour financial mechanisms involving false solutions. The perverse logic of paying to continue polluting perpetuates the causes of biodiversity degradation and destruction, and must be eradicated from all proposals. The financial resources exist, as does polluters' historical obligation to provide them, since they have caused this destruction through their development models.

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(1) More information in this brochure: Financialization of nature: Creating a new definition of nature. <http://www.foei.org/resources/publications/publications-by-subject/forests-and-biodiversity-publications/financialization-of-nature>

(2) There are two references to REDD (program for Reducing Emissions from Deforestation and Degradation): One in the recommendation on climate change that comes from SBSTTA 20 (in item XX/10), and in the next line there is a reference to alternative proposals. We see the same in the resolution proposed by the SBSTTA 19 (item XIX/8 in point 4, paragraph 3).

(3) The Aichi Goals, approved at COP 10, provide a road map for biodiversity conservation and seek to halt biodiversity destruction.

(4) Proposed resolution from the SBSTTA 20 (in item XX/12, paragraph 14, point 6).

(5) According to the UNDP, the Biodiversity Finance Initiative (BIOFIN) "aims to [...] improve cost-effectiveness through mainstreaming of biodiversity into national development and sectoral planning, and to develop comprehensive national resource mobilising strategies." [www.biodiversityfinance.net/](http://www.biodiversityfinance.net/)

(6) Matter discussed in both SBSTTA 20 and SBI 1 (SBSTTA 20, point XX/15, and further developed by SBI draft resolution 1/4).

(7) TWN Info Service on Biodiversity and Traditional Knowledge, 12 October 2012. North-South divide on resource mobilization. <http://www.twn.my/title2/biotk/2012/biotk121003.htm>

(8) GEF, UNEP, CBD; Mainstreaming Biodiversity into Sectoral and Cross-Sectoral Strategies, Plans and Programmes Module B-3, Version 1 – July 2007.

(9) Finance Mechanisms for Biodiversity: Examining Opportunities and Challenges. Co – Chairs Summary of an International Workshop convened by the OECD, World Bank, GEF, and the European Commission, together with Sweden and India, 12 May 2012 - Montreal, Canada.



## ACTION ALERTS



### Madagascar: Citizens' protests put Soamahamanina mining project on hold

Five villagers arbitrarily arrested in September 2016 during protests against a Jiuxing Mines gold mining project located 70km west of the Malagasy capital Antananarivo have finally been released after repeated calls that they be freed. The trial eventually took place a few days after the UN Human Rights rapporteur took up the issue of the villagers' arrests in the preliminary report on his recent visit to Madagascar. All five villagers received a one year suspended jail sentence for unauthorized demonstration but were acquitted on other charges. Protests in the town of Soamahamanina led to the Malagasy government halting the mining project in July, but villagers continue to request cancellation of the mining permit and the company's definite departure. The struggle for these demands continues!

Information in French: <http://terresmalgaches.info/spip.php?article143> and <http://www.madagate.org/madagascar-informations-politiques/flash-infos/5978-soamahamanina-appel-du-collectif-tany-a-la-liberation-de-robson-et-tsihoarana.html>

Information in English: <http://www.yestolifenotomining.org/in-madagascar-the-village-of-soamahamanina-manages-to-stop-a-chinese-mining-giant/>



### USA: National Meeting Makes Plans to Stop Genetically Engineered Trees

Indigenous peoples, scientists, lawyers and environmental experts met October 12-18 to discuss impacts of and strategies to halt genetically engineered trees (GE trees), with a focus on the U.S. Southeast. While there are no permissions yet for commercial production of GE trees in USA, hundreds of GE tree test plots are growing throughout the region. Many of these are operated by ArborGen, a company that has been the subject of several protests due to their promotion of GE trees. <http://stopgetrees.org/alert-strategy-meeting-stop-genetically-engineered-trees-taking-place-myrtle-beach/>

A declaration against GE trees is still open for sign-on here: <http://stopgetrees.org/asuncion-declaration-rejects-ge-trees/#more-2001>



### Cameroon: Peasant association calls on Socfin to act on promises

The National Association of Peasant and River Populations of Cameroon, *Synaparcam*, called for peaceful marches on 14 November on roads near five oil palm plantations operated by the companies *Socapalm* and *Safacam*. The two companies are controlled by *Socfin*, a multinational agribusiness specialized



in oil palm and rubber plantations and with financial and operating companies in Belgium, Luxembourg and Switzerland. *Synaparcam* brings together over 1,000 members from five different plantations. With the 14 November protests, they demand that *Socfin* act on the unfulfilled promises made since 2015, to enter into meaningful dialog with *Synaparcam* as legitimate intermediary chosen by the communities, to resolve the many outstanding conflicts its plantations are causing, and that the local authorities play their role monitoring corporate law infringements. The marches follow action in June 2016, when hundreds of villagers peacefully mobilized to disrupt *Socapalm* and *Safacam*'s activities in the same five plantations (see **Bulletin 224**).

In French: <https://www.facebook.com/synaparcam/>

In Spanish: <http://umoya.org/2016/07/11/camerun-los-campesinos-reclaman-todavia-20-000-hectareas-de-tierra-a-socapalm/>

## RECOMMENDED



### Report: From Global Enclosure to Self Enclosure: Ten Years After

A Critique of the CBD and the "Bonn Guidelines" on Access and Benefit Sharing. ETC Group, 2007. A reference document to understand the history of biopiracy and its consideration in the context of the CBD. The Guidelines were the basis for negotiation of the Nagoya Protocol. In Spanish:

<http://www.etcgroup.org/es/content/del-confinamiento-global->

[al-autoconfinamiento-una-cr%C3%ADtica-al-cbd-y-las-directrices-de-bonn](http://www.etcgroup.org/es/content/del-confinamiento-global-autoconfinamiento-una-cr%C3%ADtica-al-cbd-y-las-directrices-de-bonn)

In English: <http://www.etcgroup.org/content/global-enclosure-self-enclosure-ten-years-after-critique-cbd-and-bonn-guidelines-access-and>

See also information about Synthetic Biology (in Spanish and English):

<http://www.synbiowatch.org/> and <http://www.etcgroup.org/issues/synthetic-biology>



### Interview: How trade and investments have converted agricultural lands and fishing grounds into special economic zones

Executive Director at Focus on the Global South, Shalmali Guttal, talks about how trade and investments have converted agricultural lands and fishing grounds into special economic zones, especially in the Asian region. In the interview she describes how these conversions have affected the lives and

livelihoods of communities. The interview also covers the broader issues of trade & investments' impact on medicines, intellectual property right, and corruption and public governance.

<http://www.abc.net.au/news/2016-11-05/cross-border-exchanges-could-build-resistance-in/7997664>



### Article: Industry benefits but does not pay its dues.

Patents are an assault on genetic resources. By Guy Kastler, General Delegate of Réseau Semences Paysannes, France.

In English: <https://viacampesina.org/en/index.php/main-issues-mainmenu-27/biodiversity-and-genetic-resources-mainmenu-37/2047-industry-benefits-but-does-not-pay-its-dues-patents-are-an-assault-on-genetic-resources>  
 In French: [www.infogm.org/spip.php?article5840](http://www.infogm.org/spip.php?article5840)



### Video: Herakles - "Wrong project in the wrong place":

The short video shows how the large-scale oil palm plantation project has negatively impacted the lives of thousands of community members, threatened biodiversity hotspots, and failed to meet development promises to local communities in the Southwest region of Cameroon. The film was released in anticipation of a crucial decision to be made by the Government of Cameroon on the renewal of a land lease for

the controversial Herakles Farms (SGSOC) project. "The Wrong Project in the Wrong Place" is available here:

In English: [https://www.youtube.com/watch?v=T\\_C1ZCHgAUA&feature=youtu.be](https://www.youtube.com/watch?v=T_C1ZCHgAUA&feature=youtu.be)  
 In French: <https://www.youtube.com/watch?v=xJ8adq1K42k&feature=youtu.be>



### Ecuador: Conflict generated between Tagaeri-Taromenane indigenous peoples in isolation and an indigenous Woorani community

The Ecuadorian Amazon is experiencing many incidents of economic, political and socio-cultural conflict. These are mainly related to the opening of roads that, in turn, attract new settlements by outsiders, tourists, unauthorized flights in light aircraft, illegal logging and an increased military presence,

among others. The impact of these activities affects populations throughout the Amazon basin. The document "Current Conflict: Attack of indigenous peoples in isolation by the Woorani family in the strictly protected zone [zona intangible] of the Yasuní National Park" analyzes this reality and how a spiral of violence against Amazonian indigenous peoples was generated.

Document in Spanish: [http://wrm.org.uy/es/files/2016/11/conflictividad-PIAV-español\\_ch.pdf](http://wrm.org.uy/es/files/2016/11/conflictividad-PIAV-español_ch.pdf)

In English: <http://wrm.org.uy/es/files/2016/11/conflictividad-PIAV-ingles.pdf>

The letter "On the situation of indigenous peoples in isolation, Tagaeri and Taromenane, in Ecuador" denounces the absent role of the State, expresses proposals and demands solutions to this conflict.

Available in Spanish:

<http://wrm.org.uy/es/files/2016/11/Ecuador-TAGAERI-TAROMENANE-español.pdf>

In French: <http://wrm.org.uy/es/files/2016/11/Ecuador-TAGAERI-TAROMENANE-frances.pdf>



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