

Making Access and Benefit Sharing Regime Equitable to Women

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Abstract: Gender is a factor that determines access to resources and benefit sharing. Due to gender inequity, women could be unfairly treated in the distribution and use of resources from biodiversity and genetic research. This is true for both the indigenous and non indigenous women particularly those who are poor. An ABS regime must recognize and address this iniquitous situation for women to ensure that they have a fair share in the benefits accruing from research and use of traditional knowledge. Mainstreaming gender in ABS regimes at the international and national levels is the strategy to achieve this objective. Policies and processes that address the special situation of women are needed for the implementation of any ABS regime so that women can truly benefit from any progressive governance on access and benefit sharing.

Keywords: Gender Equity, Gender Lens, Gender Mainstreaming, Access and Benefit Sharing

Introduction

The Convention on Biological Diversity (CBD) brought a global focus on the governance of genetic resources by having access to these resources and benefit sharing as one of its founding principles. The major players in this debate are the users and providers of genetic resources where developing countries (mostly providers of genetic resources) have formed solidarity among themselves to focus the discussions on benefit sharing and the prevention of misappropriation of biodiversity resources.¹

This position taken by developing countries is called for given that for a long time, many corporations and research institutions based mainly in developed countries have sometimes taken undue advantage of their dominance in the global liberalized economy in the exploitation and use of biodiversity resources of developing countries. These are exemplified in products such as medicines and food derived from these resources that are inaccessible to many of the people in poor nations.

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Genetic materials and traditional knowledge that were taken without the prior consent of communities that hold these resources also abound in the debates.²

This iniquitous state of affairs has been complained about by communities and civil society groups which are concerned not only with the unfairness that is obtaining but also with the threat to the sustainability of the environment. Among these are organizations of indigenous peoples who are among the most directly affected by corporate encroachments into their ancestral domain where the remaining forests are still found.³

To redress this imbalance, more attention has been given recently by international bodies (e.g. the UN) to the participation of national governments and of local communities in the protection and sustainable use of biodiversity resources. This is seen for instance in various international declarations and bioethics guidelines that seek to ensure the free and prior informed consent of affected communities as well as their fair share in the benefits that accrue from research and product development.⁴

However, there has not been as much attention to the gender question in such discussions compared to the attention on inequities between rich and poor countries.⁵

This paper argues that gender should be mainstreamed in an international and even in national ABS regimes for both human and nonhuman genetic resources. No ABS governance can be truly fair if it fails to ensure the protection of women's rights in ABS arrangements. The subordinated and discriminated situation of women the world over makes it easy to overlook their interests in ABS negotiation and decision making. The paper ends with recommendations for ways of making ABS governance equitable to women.

Conceptual Clarification

Before proceeding to discuss the need and role for gender to be considered in ABS debates, let us clarify the key concepts used in this paper. These are: (a) gender; (b) gender equity; (c) gender mainstreaming; and (d) gender lens.

Gender refers to roles, status and identities constructed by society that impact the allocation of power, entitlements, opportunities and prestige between men and women.⁶ *Gender equity* means fairness and justice in the distribution of benefits and responsibility between men

and women. The advocacy for gender equity results from a recognition of the differences in power between men and women that determine their well being and development thus the need to rectify the imbalances between the sexes.⁷ To promote gender equity does not mean to “invert inequalities”⁸ or to make women dominate men but to correct historical and structural disadvantages and create a just society for all.

Mainstreaming gender in ABS governance is examining the implications for women of the policies, processes and structures that will be put up and ensuring that the interest of women are integrated in the governing system.

Mainstreaming gender in ABS governance is the logical step to take when there is the application of the gender lens in examining issues of access and benefit sharing. *Gender lens* is a perspective that considers gender to be a fundamental factor of social life since it creates imbalances in power, access to and control over resources between men and women as a consequence of gendered structures, processes and systems. This is a holistic perspective because it recognizes the interconnectedness of gender with other structures of inequity such as poverty and ethnicity in all levels of social life.

Why should Gender be Mainstreamed in ABS Regime

Gender issues are issues that burden the majority population of the world – the women. Why are gender issues primarily women issues? It is because political, economic and social inequities in virtually all societies in the world are suffered by women. Gender issues are issues of discrimination and marginalization that prevent women from benefiting equitably from the resources available in the family, the community, the state and society in spite of women being the main custodians of biodiversity at household and local levels.⁹

The more visible inequities are those that result from class-based differentials in power, opportunities and resources. The less visible and oftentimes overlooked inequities are gender-based inequities. While class-based inequities should not be tolerated and must be urgently addressed, there is as much urgency in addressing gender-based inequities because these have been responsible for the untimely death¹⁰, ill health and poverty of millions of women.

Women and girls constitute the greatest majority of the world's poor.¹¹ In the same social class, there is a higher rate of unemployment

among women compared with men.¹² The ratio of malnourished women to men is overwhelmingly high. Men dominate public decision making with women mostly relegated to the domestic sphere.¹³ This is the special situation of poor women that requires particular attention in every policy and programme.

There is need for policy and mechanisms that explicitly address gender-based inequities because of the tendency to conflate gender with social class inequities. For instance, in policy or programmes that focus on poverty reduction, there is a tendency to expect that the benefits will be enjoyed equitably by both men and women. The reality, however, is that within poor communities there are structures that rationalize the subordination and oppression of women. A good example of these structures are socio-cultural norms that model a good woman to be subservient and domesticated; of the ideal mother who subsumes her needs to those of her family.¹⁴ What is the implication of these norms and of the special situation of women to their share in benefits or access to products derived from biodiversity or human genetic resources? There are several serious implications.

First, the fact that among the poor, they are poorer, means that products developed from biodiversity or human genetic resources such as medicines could be inaccessible due to their poverty. While it can be reasonably argued that poor men too would not be able to afford these medicines, poor women's access is obstructed by two intersecting factors: poverty and gender based bias whereas that of men's access is obstructed only by poverty.

How does gender and poverty intersect such that access is more difficult for women? In poor households, women as a result of their socialization to the gendered norms of their society, under-prioritize their health needs when there are demands for the scarce economic resources of the household by other members of the family. They would sacrifice their own health condition in order that the needs of their children or husband could be met.¹⁵ The situation would be different for women in well-resourced households. Poor women, therefore, suffer the consequence of the impact of the combination of poverty and gender inequity.

Second, in decision making on the distribution of benefits, women could be excluded from participation. The fact that universally men dominate the public discussion and decision making is illustrated in many actual cases of negotiations and decision-making for benefit sharing of biodiversity, involving local indigenous communities or

governmental agencies where women, if at all they are participants, constituted only a small minority in the councils that represented their communities.¹⁶ There are socio-cultural, political and economic barriers in every society that preclude poor women's meaningful participation in matters of public concern.

The participation of women, even if they only constitute the minority could be meaningful if they are able to influence the process and outcome of decision making. It is not only their physical presence that is required – for this could simply be token participation. The quality of their participation is also essential.¹⁷

In other words, addressing the inequities suffered by poor communities does not necessarily result to addressing specific disadvantages suffered by women or their particular needs. An international ABS regime that attends to inequities between rich and poor countries or a national regime that attempts to protect vulnerable communities, without explicit proviso for women's participation and entitlements could be unfair to women.

Gender Issues in Indigenous Societies

The rapid expansion of the commercial global biotechnology industry poses particular threats to indigenous people. This is a driver of increased research on biodiversity resources, especially genetic resources for commercial products (e.g. cosmetics, health foods). The growth of this industry meant greater intrusion in indigenous peoples' areas in developing countries where much of the biodiversity genetic resources are found and used by local people. As is often the case, access to and benefit sharing in resources from biodiversity are issues confronting indigenous peoples who are faced with dilemma of lack of awareness and tools to be involved in decision making.

Is gender a relevant issue in indigenous societies? The egalitarianism characteristic of indigenous societies is fast becoming extinct due to changes brought about by their interaction (in many cases, imposed) with the dominant society.¹⁸ Hierarchical and consumerist values are making inroads in indigenous societies indicated in increasing reports of domestic violence, the transformation of women from equal partners in economic activities to dependents confined to household work and sexual abuse.¹⁹

Indigenous women suffer greater discrimination than other women. The combined effects of ethnicity, gender and poverty²⁰ make

them among the most marginalized and impoverished women. These are layers of discrimination that impact indigenous women's access to and control of resources.

However, indigenous societies are usually perceived as homogeneous, meaning that while they are considered to be highly vulnerable to exploitation and deserving of protection, there is no differentiation in the vulnerability and marginalization of men and women. This is a gender-blind perception. In reality, there are significant differences in the nature and degree of vulnerability and marginalization of men and women in these societies. These important differences can be identified and understood with the use of the gender lens.

Only very recently has there been a major international instrument, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) that explicit provision is made against the discrimination of indigenous women. However, like many other UN declarations, this instrument is not legally binding although because of its moral weight it can be used to advocate for indigenous women's rights in an ABS regime.

Using the Gender Lens in Constructing ABS Governance

In Yokohama is a holograph building designed by Hiro Yamagata. A prominent feature of this building is the solar cube. The building's colour, shape and visual impact change when the viewer moves from one spot to another. This is an apt metaphor to illustrate the importance of perspective in our understanding of things.

With out the use of a gender lens, vulnerabilities and inequities would be seen as similarly experienced; a gender lens will surface the differences between men and women. If the perspective is focused on poverty alone without its link to gender, then women's interests in access to and share in benefit from biodiversity and other genetic resources could be overlooked. If a gender lens is used, then women's concerns will be an integral part of the policy, mechanisms and structures of the access and benefit sharing governance whether from biodiversity or from human genetic resources, at the international and national levels.

Ways for Mainstreaming Gender in ABS Governance

There has been substantial progress in the past three decades towards international recognition and protection of women's rights in many social and human development programs. In health and human rights, good examples are the UN Conference on Population and Development

(Cairo 1994) declaration, the Convention on the Elimination of Discrimination against Women (1975), the World Conference on Women (Beijing, 1995) and the Millennium Development Goals (MDGs). In biodiversity conservation and protection, the Convention on Biological Diversity (Rio de Janeiro, 2002) stands out for its preamble that recognizes the need for the “full participation of women at all levels of policy making and implementation for biological diversity and conservation”²¹ There have been important initiatives for mainstreaming gender in the implementation of the CBD such as those done by UNEP, IDRC, GTZ, FAO and UNDP.

However, there is a gap between good intentions as expressed in these various global policies on one hand and implementation on the other. Despite advances in legal rights, the actual state of women’s rights is dismal.²² Therefore, efforts to realize these policy pronouncements at local, national, regional and global arenas should continue. The time is opportune to advocate for gender mainstreaming in ABS governance because the meetings and negotiations are taking place at the committee level.

The Office of the Senior Gender Specialist of the World Conservation Union (IUCN) has produced an excellent policy brief for mainstreaming gender in ABS as part of its advocacy for gender equity in the environmental sector.²³ The brief makes a strong case why women should be involved in the ABS governance. It also puts forward doable ways for mainstreaming gender. Among the basic principles underlying the recommendations are: (a) gender-sensitivity in designing, planning, consulting on the content and structure of the ABS regime; (b) provision of empowering environment for women to access and share in the benefits; (c) development of women’s capability to participate meaningfully; and (d) redressing gender inequity in the distribution and use of benefits.

ABS Regime that Upholds Gender Equity

The unity of process, content and outcome is what is needed now. The outcome of any project is usually affected by the kind of process that it utilizes. If the project (like the construction of an ABS regime) is inclusive and consultative, ensuring the meaningful participation (as explained earlier in this paper) of the marginalized and oppressed, the outcome of such a process will reflect the interest of these groups. On the other hand, if the consultation and negotiation are sensitive only to the voice of the dominant or articulate, much of the concerns of those

who have no voice will be excluded in the final outcome.

However, the method for encouraging women to participate should consider their subjective and objective situation. This means recognizing that women could subjectively believe they have no right or capability to participate. They could therefore refuse to participate even if they are entitled to participate. Or it could be that their objective experience has given them valid reason to fear the consequence of participating, as for example it would take time away from their multiple domestic responsibilities and cause domestic trouble.²⁴

The process for involving women should consider this reality as well as women's time constraints. It should be innovative to enable women who have no experience at all in this type of activity to speak. It might take time for some of them to voice their needs and aspirations.²⁵

Conclusion

It was shown that socio-cultural, political and economic disadvantages are suffered by women because of their gender. However these disadvantages are oftentimes overlooked even in well intentioned policies and programs that sought to address poverty and inequity. An ABS regime that ignores this reality will contribute to the perpetuation of gender inequity.

Gender issues are complex and deeply rooted in society. Women's disadvantaged position, their own subjectivity about their persona and roles as well as the barriers that keep them from meaningfully participating in negotiations and decision making about access and benefit sharing requires a nuanced, sensitive and holistic approach. Top-down, narrow, technical and male-dominated mechanisms will not encourage women to meaningfully participate and enable them to equitably share in the benefits.

Legislating poor women's meaningful participation is easier than implementing it. ABS governance both at the national and global levels should include mechanisms for building women's capability and helping them empower themselves through equitable access and benefit sharing.

Endnotes

¹ Nijar (2008).

² Hamilton (2006).

³ Convention on Biological Diversity. At http://www.mabs.jp/cbd_kanren/jouyaku/jouyaku_01_e.html (Accessed March 12, 2007)

⁴ Castillo, Feinholz (2006).

⁵ Tobin, Lorena (2007).

- ⁶ Castillo (2001).
- ⁷ Wong (2000).
- ⁸ Tobin, Aguilar (2007).
- ⁹ Castillo, Feinholz (2006).
- ¹⁰ Nobel laureate Amartya Sen calls this the phenomenon of the “missing women”, meaning that more than 100 million women have died prematurely due to unequal access to resources. See Sen A. December 1990. More Than a Million Women are Missing. *The New York Review of Books*. 37(20). Page Feature.
- ¹¹ Division for the Advancement of Women (DAW), Department of Economic and Social Affairs. 2000. *Gender Equality, Development and Peace for the Twenty First Century: the Feminization of Poverty*. New York:DAW/UN.
- ¹² Moss (2002).
- ¹³ PAHO (2003).
- ¹⁴ The patriarchal ideology of the family depicts women as dependents of men, their needs provided for by the men; women’s identities are in relation to their social and biological reproductive roles. See Howard J and J Hollander (1997).
- ¹⁵ Santow (1995).
- ¹⁶ Illustrative examples are the San and Kani peoples’ negotiations for benefit sharing and allocation of funds relative to their biodiversity resources with business corporations and governmental bodies. The reports on these cases are available at <http://www.uclan.ac.uk/genbenefit>
- ¹⁷ In the Philippines, the increase in the percentage of women in the national parliament over the years is mainly a function of political dynastism where wives, sisters or daughters stand for elective positions when the male politicians in the family are prohibited by law to be elected to the same public office for more than three consecutive terms. The female relatives are there to keep the position for the family until the time that the male politician can stand be elected to the office again.
- ¹⁸ Kathrin Wessendorf (2004).
- ¹⁹ A good source on the current situation of indigenous and non-indigenous women in India is the 2-volume work of R Indra and Deepak Kumar Behera. Eds. 1999.
- ²⁰ Most indigenous peoples are the poorest in the world. See Wassendorf. Op cit.
- ²¹ Convention on Biological Diversity. UNEP/CBD: Preamble. Available at: www.biodiv.org/doc/legal/cbd-en.pdf. Accessed July 29, 2006
- ²² Molyneuz, Maxine (2002).
- ²³ Alvarez Castillo F. (2001).
- ²⁴ This risk of harm is not only a subjective fear of women. It could in fact be objectively a real threat. For example, in a project intended to capacitate women to become community leaders, some of the officials of the women’s organization that was formed during the project were battered by their husbands for neglecting their domestic duties by attending meetings and trainings. See Estandarte, N, Segovia, L and Alvarez-Castillo, F. 1999.
- ²⁵ An example illustrates this: during a study into women’s health needs, when they were asked about their health needs during interviews, the women talked only about the needs of their children, their husbands and their parents. It was only after probing that they began to talk about their own needs - for livelihood, reproductive health services, safe and accessible water, firewood, etc.
- ²⁶ In Galvez Tan J, F Alvarez Castillo et al. 2006.

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