LIFE AS COMMERCE:

The impact of market-based conservation on Indigenous Peoples, local communities and women

To all the aboriginal children of the World, may the future find them in their land without evil.

A homage by the GFC

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October 2008

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Introduction

Since 1987, when the Brundtland Commission first linked environment and development concerns, it has gradually become fashionable to approach biodiversity conservation from an economic perspective. In the early 1990s analyzing the impacts of economic, trade, finance and subsidy policies on biodiversity was a relatively new thing: *"It's the economy, stupid"* was a popular slogan that was used by certain conservation scientists and NGOs. It was still considered to be very forward looking if a conservation organization decided to include economists in its staff. By looking at biodiversity conservation through economists' eyes, the biodiversity conservation community hoped it would be able to influence economic policies and incentive schemes and adapt them to the needs of biodiversity conservation.

The now popular use of the term 'environmental services' was clearly inspired by the ambition to integrate biodiversity conservation into classic development policies. The authors of the UN Millennium Ecosystem Assessment popularized the term in an attempt to integrate the findings of the assessment into the multitude of programs and policies that were being put in place to implement the UN Millennium Development Goals. It was undoubtedly felt that a utilitarian approach would be more successful in convincing development policy makers of the importance of biodiversity conservation. It should be noted, though, that many Indigenous Peoples and other social movements have expressed concern about the term 'environmental services' as they consider it an expression of a utilitarian attitude towards biodiversity that does not take into account its intrinsic value and holistic nature.[1]

However, the influence that economists wield was underestimated by the conservation community. Instead of adapting economics to the imperative of conserving our planet's biodiversity, there has been an increasing tendency to adapt biodiversity conservation policies to mainstream economics.[2] The economic rationale is very straightforward: if it is possible to transform biodiversity and other environmental 'services' into marketable assets, then market forces will drive biodiversity conservation.

However, attempting to squeeze something as holistic as global biodiversity into the structured and relatively rigid framework of the market was always going to be difficult (not to say morally dubious). For anything to become marketable, the 'product' has to be:

- commodified and transformed into a clearly defined legal object or entity that can be traded;
- privatized, in terms of becoming the clear property of a specific owner who has the legal right to sell it; and
- sold, which also means there needs to be a buyer willing to pay to become the new owner.

In relation to biodiversity, these three steps raise numerous moral and technical dilemmas - and it should be emphasized that these dilemmas are not just theoretical. For example, Paraguay, having passed a 'Payments for Environmental Services' (PES) law (featured in one of the case studies in this publication) is now faced with the highly complicated question of developing an adequate regulatory system to implement the general principles of the law. As a first step, the Secretariat of the Environment in Paraguay has been charged with the quite daunting task of putting an appropriate market value on all the

[1] *Servicios Ambientales, el Ciclo Inferna"*, Boletín de Acción Ecológica no. 123, Quito, Acción Ecológica, 2003.

[2] *Life as Commodity*, CENSAT and Global Forest Coalition, 2005, Bogotá

'environmental services' provided by Paraguayan ecosystems.

In most existing market-based conservation approaches, the complexity of separating and commodifying the various elements of ecosystems has proven to be overwhelming. Ecosystems are complex, highly interactive systems, and most values are integral to the system itself. Even the carbon sequestration of forests for example, is variable, impermanent and not always easy to measure. Ecotourism – also considered a market mechanism since it commodifies landscape values - has often destroyed the very landscapes people come to visit.

Furthermore, certified timber, such as that certified by the Forest Stewardship Council (FSC), still includes timber derived from large-scale monoculture tree plantations, meaning that there is no positive linear relationship between FSC certification and biodiversity values either. As monoculture tree plantations normally replace more biologically diverse ecosystems, such as old growth forests and natural grasslands, the biodiversity value of certified timber can be highly negative. Assumptions that plantations would decrease timber exploitation from natural forests have never been satisfactorily substantiated.[3]

Yet despite a whole host of practical and methodological difficulties, the highly profitable commodification of carbon storage capacity, landscape values, and genetic resources and related traditional knowledge is now center stage.

[3] *Certifying the Uncertifiable, FSC Certification of Tree Plantations in Thailand and Brazil*, C. Lang, 2003, World Rainforest Movement, Montevideo, http://www.wrm.org.uy/actors/FSC/uncertifiable.html

Market-based conservation mechanisms in the international context

The main policy mechanisms that have so far been classified as market-based biodiversity conservation approaches include:

- carbon trading;
- biodiversity offsets;
- certification;
- trade in genetic resources and related knowledge; and
- ecotourism.

Carbon trading

The United Nations Framework Convention on Climate Change (UNFCCC) became one of the first fora in which market-based approaches to environmental problems were actively promoted. The US was able to influence the shape and nature of climate change negotiations from the start, when other countries were still hopeful that the US would commit itself to obligatory greenhouse gas reductions. This is an important reason why these market-based approaches were incorporated into the Kyoto Protocol.

Meanwhile, the same environmental economists who promoted market-based approaches in general, enthusiastically promoted the inclusion of forests as carbon sinks or reservoirs in these market-based mechanisms. They argued that paying landholders for forest conservation by allowing them to

Soy plantation in Paraguay. Photo: Simone Lovera

sell the carbon stored in these forests as emission reduction credits would provide an important incentive for conservation. This argument has been enthusiastically embraced by the forestry sector, which realized that a carbon market could provide additional income for their commercial forestry operations. Plantation companies have been particularly active in promoting the inclusion of 'reforestation' and 'afforestation' projects in international carbon trading, including between industrialized countries and developing countries (which takes place through the Clean Development Mechanism (CDM)).

The many accounting and verification problems that surrounded the inclusion of forest conservation in the Clean Development Mechanism finally caused governments to decide, in 2001, to include reforestation and afforestation projects only. However, at the 11th Conference of the Parties to the UNFCCC in 2005, a number of developing countries reintroduced the proposal to include some form of incentives for reduced deforestation in the next phase of the climate change regime (the period after 2012). As a result, negotiations to include a further area - projects that focus on Reduced Emissions from Deforestation in Developing countries (REDD) - are now underway in the UNFCCC. The big question is whether these incentives will take the shape of a market-based mechanism like emissions trading, or a publicly governed mechanism like a fund.

Biodiversity offsets

Biodiversity offsets are one of a range of market-based approaches to financing conservation easements and other so-called 'Payment for Environmental Services' schemes. Conservation easements themselves need not be market-based and include policies such as the European Union's Common Agricultural Policy (CAP), which provides a subsidy to farmers who set aside land from production to allow nature to recover; and similar financial incentives given to landholders to set aside land for conservation purposes, which are provided by large conservation organizations in the USA.

These same organizations are now experimenting with setting up a market for these conservation easements in developing countries like Paraguay, combining them with the new interest in the so-called 'biodiversity offset' market. Biodiversity offsets also have their roots in the US, where there is a relatively developed market for wetland conservation projects that (in theory) compensate for wetland destruction in other areas. In Paraguay, for example, landholders like large-scale soy producers are legally obliged to offset 25% of their land for conservation purposes. Conservation organizations are now actively proposing to turn these conservation easements into tradable assets, so that larger pieces of land can be acquired and gazetted as protected areas.

Certification

Certification is intended to ensure *"sustainable forest management… based on environmentally, socially beneficial and economically viable management of forests for present and future generations"* according to the Programme for the Endorsement of Forest Certification schemes (PEFC)'s Council. The leading certification body, the Forest Stewardship Council (FSC), also says its mission is *"to support environmentally appropriate, socially beneficial and economically viable management of the world's forests."* In addition, FSC's Principle 6 states that: *"Forest management shall conserve biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest."*

Despite these fine sentiments, global deforestation has accelerated to

Black lake, the origin of the river Chinchiná in Colombia. Photo: Diego Alejandro Cardona

unprecedented rates since the inception of 'forest' certification – as has the destruction of agricultural land and natural areas, as new tree plantations have been established.

Meanwhile, in an attempt to defuse growing criticism of the impacts of the booming agrofuels (biofuels) industry, consumer countries are proposing adherence to similar set of 'sustainability criteria' that will supposedly restrict imports of agrofuels to those products that have been certified as meeting certain socio-economic and environmental standards. On the surface, this may appear to be an appropriate mechanism to provide assurances and guarantees to allay consumer fears and to satisfy government regulators: its proponents maintain that the existing certification of forest and tree plantation management has been a great success, and that the use of similar agrofuel certification will guarantee peace of mind for all concerned.

In reality, the certification of forests and tree plantations by organisations such as the FSC (103 million ha) and the PEFC Council (202 million ha) - leaves much to be desired, even when it comes to certifying forests. As this and other case studies show, such criteria are often insufficient to meet the intended objectives; and can sometimes be easily manipulated or sidelined.

Ecotourism

Ecotourism has been promoted as a market-based conservation mechanism since the mid-1990s. While carbon trading and gene trading have been strongly pushed by commercial and semi-commercial scientific institutions and consultancy firms, which have a strong commercial interest in the relevant markets, the tourism industry was not openly involved in the discussion on biodiversity and tourism when it first came up within the framework of the CBD in 1999.

However, behind the scenes the tourism industry undoubtedly played an active role, especially in Germany, which positioned itself squarely as the leading advocate for ecotourism as a potential market-based conservation mechanism during meetings of the Commission on Sustainable Development (CSD) and the CBD in 2000. Despite the fact that the CBD itself cautioned that tourism *"operators are very likely to 'export' their adverse environmental impacts, such as refuse, waste water and sewage, to parts of the surrounding area unlikely to be visited by tourists"* (decision V/25 of the Conference of the Parties), governments have been actively promoting ecotourism as a market-based conservation mechanism ever since.

It should be emphasized that ecotourism and sustainable tourism are two different things, even though there is a tendency to use the terms interchangeably. Ecotourism is based on the assets provided by an attractive natural landscape, but it is not necessarily sustainable in terms of using less water, energy and other natural resources. The social criteria applied to ecotourism projects can be even less clear. Yet, all over the world small- and large-scale ecotourism enterprises have been sprouting up, partly as a result of active promotion by government agencies, including nature conservation departments.

In countries like India, governments are actively promoting ecotourism as an economic sector that can thrive in remote, infrastructurally-challenged and ecologically sensitive areas of the country, like the Andaman Islands. Yet, especially in a country where staggering rates of economic growth are rapidly widening the gap between rich and poor, there is a severe risk that tourism development in isolated natural areas, where the main economic activity of communities is mostly subsistence and non-monetary, will lead to social tensions, loss of cultural values, prostitution and wide-spread biodiversity destruction.

Community enterprise, Andamans, India

Trade in genetic resources and related knowledge

When the CBD agreed to the equitable sharing of the benefits of genetic resources[4], not all governments were thinking of using a market-based mechanism to implement the process. In fact, the first few years of the CBD were marked by a lively debate between countries and NGOs that believed in market-based approaches and NGOs and social movements that preferred a multilateral system (that would collect a certain percentage of the sales of products based on genetic resources, and channel them back to farmers, communities and institutions playing an active role in biodiversity conservation, through a fund–based mechanism).

Such a system has finally been established by the Food and Agriculture Organization (FAO), through the conclusion of the International Treaty on Plant Genetic Resources for Food and Agriculture, but it relates to a limited number of agricultural crops only. Yet it still allows the further commercialization of and restricted access to genetic resources, once the initial obligation to pay 1.1% of product

[4] Convention on Biological Diversity, Article 15, 1992, http://www.cbd.int/convention/articles.shtml?a=cbd-15

sales to the plant genetic resources fund has been met.

Meanwhile, within the framework of the CBD, many governments and other institutions are promoting a more market-oriented approach to benefit sharing. They favor a system in which individual governments, communities and/or institutions can sell their genetic resources and related traditional knowledge on a commercial basis. The CBD's voluntary Bonn Guidelines on Access and Benefit Sharing, which were adopted in 2002, basically foster a bilateral system of gene trade (although they could be interpreted as supporting the above-mentioned multilateral system too).

However, only five months after the Guidelines were adopted, a group of developing countries effectively overturned them, by having the World Summit on Sustainable Development adopt a recommendation that an 'international regime on benefit sharing' was to be 'negotiated'. Those negotiations continue even now; and the question of whether they address access *and* benefit-sharing is still contested. At its ninth meeting in Bonn, in May 2008, the Conference of the Parties reiterated its instruction to the Working Group on Access and Benefit Sharing to complete the elaboration and negotiation of the international regime at the earliest possible time before the tenth meeting of the Conference of the Parties in 2010.

Meanwhile, the relationship between these negotiations and ongoing related negotiations within the framework of the above-mentioned FAO Treaty, the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO) are uncertain. The relationship is even less clear now that negotiations in the WTO, generally a very powerful and influential organization, are stalled. The question is whether the collapse of WTO negotiations would create a renewed opportunity for a less mercantilist and more publicly governed system of access and benefit sharing.

Indigenous Peoples have time and time again voiced their concern that the current negotiations within the framework of the CBD squarely ignore their rights over their own territories and traditional knowledge, especially in relation to access and benefit sharing. These rights are now reconfirmed by the UN Declaration on Indigenous Peoples, an instrument that should certainly be seen as an inherent component of the international regime on access and benefit sharing. However, a small number of governments that are signatories to the CBD refuse to recognize the Declaration.

Analyzing the impact of market-based conservation mechanisms on community governance

Market mechanisms are currently in vogue and governments are striving to use them to resolve environmental crises in many different ways. But few analyses seem to have been conducted concerning both the direct and indirect social impacts, especially with respect to whether market-based approaches strengthen or undermine community governance over biodiversity. This is remarkable, as community-based forest management, community-conserved areas and the recognition of Indigenous territories are widely seen as very successful conservation strategies. It is thus of the utmost importance that market-based approaches are analyzed to see whether they contribute to community governance, or whether they undermine these successful conservation strategies.

Most existing studies simply focus on whether or not communities can participate in schemes, without comparing the full impact of market-based policies and non market-based policies on local communities and

Indigenous Peoples. Even less analysis is available concerning the way in which markets can interfere with Indigenous territorial rights; and community governance over the forests and other ecosystems in general. How do these compensation schemes work in the real world? And who gets the money? What do these financial flows imply for communities and their internal governance structures? These questions are even more important in the light of the current international negotiations on the potential inclusion of forest conservation initiatives in the formal international carbon offset market.

This Life as Commerce analysis does not pretend to be an in-depth scientific analysis of the impacts of market-based conservation mechanisms on communities and their governance systems. There is a significant amount of academic analysis already available that investigates market-based conservation mechanisms, based on literature reviews and theoretical assumptions. Many of these studies conclude that market-based conservation mechanisms can, in theory, have positive benefits for local communities and Indigenous Peoples, provided a number of safeguards are in place. But the problem is that this theoretical world does not exist: there *is* no country where all such safeguards are in place.

The Global Forest Coalition, as a world-wide coalition of NGOs and Indigenous Peoples' Organizations, looks to its national member organizations to show how these theoretically well-intended market-based approaches actually play out on the ground. Five groups in developing countries have analyzed the way in which five different types of market-based approaches have worked out in the real-life situation that exists in their countries; situations where social safeguards are either non-existent or weakly implemented.

The methodologies used had a very strong emphasis on field visits, and interviews and consultations with the affected communities themselves. The groups also analyzed their countries' legal and policy frameworks, to identify whether any social or environmental safeguards had been incorporated. The draft results were discussed at a number of workshops with (Indigenous or non-Indigenous) community representatives and other stakeholders and rights-holders.

The resulting case studies demonstrate a disillusioning reality. Even though some of the countries selected have strong laws intended to promote community governance over forests and other ecosystems, such as India and South Africa, the researchers found that it was impossible to avoid the erosion of community governance over biodiversity when market-based conservation initiatives, like forest certification and ecotourism, were implemented. Put simply, the local communities and their councils are not strong enough to defend their community's interests against the powerful corporate interests driving market-based projects on their lands.

In countries plagued by bad governance, as Paraguay was at the time of the study, the impacts were even more devastating. In fact, it was concluded that the biodiversity offset market in Paraguay, established through its new Payment for Environmental Services scheme, can be seen as both a product of and a tool furthering corporate interests and those of large landholders.

Our case studies addressed the following five market mechanisms:

In **Colombia**, a country whose government has played a very active role in the promotion of the inclusion of forests in international carbon trading, the impact of reforestation and afforestation projects on participating local communities, especially women,

and their sovereignty over biodiversity, was assessed.

Costa Rica is home to the famous INBio project, which sells genetic resources and traditional knowledge to pharmaceutical companies. COECO-Ceiba / Amigos de la Tierra-Costa Rica considers the impacts that the uncomfortably close relationship between INBio and the Costa Rican government has for Indigenous Peoples and local communities in the country. It considers the hypothesis that bio-prospecting weakens traditional Indigenous and community governance over the contested resources as well as placing further stress on the conservation of resources.

In **India**, where the government is actively promoting ecotourism as a market-based conservation mechanism, the impacts of this policy and specific ecotourism operations on community governance and the poorest sectors of society are analyzed. The case study considers the hypothesis that newer biodiversity-rich areas, with or without protected area status, are being rapidly opened for ecotourism. In the absence of coherent policy, regulation and guidelines, ecotourism has impacted on biodiversity and the lives and governance systems of communities. This has resulted in loss of rights and benefits concerning the use of biological resources. Women are particularly affected as they confront increasing problems of social evils, yet have a reduced say in matters that affect them.

In **Paraguay**, where a number of conservation organizations have been actively promoting market-based mechanisms for several years, the case study focuses on conservation easements and tradable development rights, looking at the impacts that Paraguay's Payment for Environmental Services scheme, which uses biodiversity offsets, has on Indigenous Peoples, local communities and women.

Its starting point is the hypothesis that the development of private projects to implement conservation easements and tradable development rights without national legal force is violating local collective rights and threatening the livelihood systems of peasant and Indigenous communities. Social movements also fear that these biodiversity offsets will lead to further land concentration, and distract attention from the other environmental and social problems caused by the large-scale expansion of monocultures like soy.

South Africa has more than 80% of an estimated 1,400,000 ha of its legal timber plantations certified by the Forest Stewardship Council (FSC). There is strong evidence that the effects of these certified plantations have been negative on almost every score at the community level, even though it is the communities that own the land, meaning that they are in a stronger negotiating position than communities in some other countries. This case study considers the impacts of Hans Merensky Holdings and its subsidiary, Singisi Forest Products, on local communities that are supposed to be benefiting from the presence of these companies.

Summary of the main findings of the case studies

The case studies in this publication indicate that market mechanisms can and do have a wide range of negative impacts on local communities and Indigenous Peoples, particularly on women, and even for those communities or Indigenous Peoples willing or coerced into participating in them.

All the case studies support the conclusion that market mechanisms exacerbate existing inequalities; undermine alternative regulatory systems; favor those with clear land tenure; and are exceedingly difficult to

Author Blessing Karumbidza with Singisi community members. Photo: Wally Menne, Timberwatch Coalition

participate in or benefit from for those without the necessary investment capital, expertise, education or personal contacts. Those with more power and influence, in government and industry, are the ones reaping the rewards, most especially in countries where corruption is rife. Communities and Indigenous Peoples, and the women within those communities, are losing from the overall dynamic, and that holds even for those communities that are willing or would like to participate.

Those who own land and resources are most likely to benefit

It is often argued that market-based mechanisms, such as carbon trade, will benefit the poor since many of the most valuable ecosystems of the planet are inhabited by Indigenous Peoples and other local communities with few economic resources. However, an often insuperable legal obstacle for many of the world's poorest people is that they do not have the legal deeds or land titles to the lands they occupy. Yet the use of market mechanisms requires clear ownership – knowing who has the right to sell.

The legal 'ownership' and tenure of land is a hugely controversial issue, contested over decades by Indigenous Peoples. In spite of the recently agreed United Nations Declaration on the Rights of Indigenous Peoples, which confirms that *"Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired"* (Article 26), very few Indigenous Peoples have been able to reclaim legal tenure over their ancestral territories. Although some market-based conservation systems do officially recognize the rights of Indigenous Peoples, including their land rights, and thus their right to sell the 'environmental services' of that land, this only applies to officially recognized territories.

Market mechanisms lead to the privatization of vast tracts of land

The increasingly widespread use of market mechanisms related to land ownership is worsening disputes over

land, to the detriment of Indigenous Peoples.

In Paraguay, for example, conservation organizations that support the use of market mechanisms to conserve biodiversity have started to privatize part of the ancestral territories of the 17 first peoples of Paraguay. These lands are now declared private reserves under Paraguay's Act 352, which stipulates that private protected areas may not be expropriated or confiscated, thus denying any Indigenous claims to the land.

In addition, private conservation areas are being established on the last remnants of natural areas, in the Mby'a Peoples territories in the East of Paraguay, for example, where there is biodiversity of tremendous cultural value for these peoples. Several nature reserves have been established in their ancestral territories without informing the communities, let alone obtaining their free, prior, informed consent.

The relationship between communities such as the Mby'a People and the conservationists is further complicated by the role of the State and multilateral aid agencies. With respect to the Mby'a, for example, these institutions are all aggressively promoting the establishment of a protected area that restricts their ancestral rights.

Market mechanisms can lead to the illegal appropriation of resources

In Costa Rica, a country renowned for its involvement in bio-prospecting, the rights of ownership over genetic resources in their ancestral territories and the associated traditional knowledge of Indigenous Peoples and local communities regarding those native species seems to go entirely unrewarded, even though the final marketable 'products' are entirely dependent upon it. The literature reviewed for the Costa Rican case study found no evidence of any specific benefits to local communities, traditional fishing villages or Indigenous Peoples, and limited economic benefits in general.

Whether or not these communities or Peoples would ever have decided to produce and sell commercial products based on their traditional knowledge themselves is a moot point. However, once that knowledge has been appropriated, they no longer have such a choice.

Market mechanisms are throwing land reform programs into reverse

Market mechanisms that involve access to and the benefits that can be derived from land, forests or natural resources are driving up the price of land (in conjunction with the spiralling price of commodities). The case studies in this publication reveal that this is throwing critical land reform programs – the result of decades of campaigning by Indigenous Peoples, in some cases – into reverse.

This is very clear in Paraguay, for example, where lawsuits being brought by Indigenous communities and small farmers are rarely settled in favor of the original inhabitants, even though the National Constitution of Paraguay formally recognizes the right of Indigenous Peoples to their ancestral

Traditional handcrafts made of plants from the forest, Costa Rica. Photo: Marco Chia.

territories. The Mby'a Guaraní communities' land claim processes, intended to recover their territories, are frustrated by the fact that the current owners of the private reserves now anticipate increased income from the land under Paraguay's PES scheme.

Speculators are buying up land to profit from biodiversity-related market mechanisms

Foreign speculators have started to buy up biodiversity and carbon rich land, in the hope that it will generate profits in the future, through its ability to provide environmental and carbon sequestration services that can be sold, including in the carbon offset market.

This is an option that is only open to those with capital to invest, such as financial institutions and large conservation organizations. Indigenous Peoples and local communities are simply not in a position to initiate this sort of investment.

London-based Canopy Capital, for example, recently launched a project in the Iwokrama reserve in Guyana, with the intention of developing a *"number of investment products in an attempt to monetarise the services of the 371,000 ha forest, such as rainfall protection, water resource preservation and conservation of native biodiversity."* [5] Similarly, Sydney-based New Forests Pty Ltd plans to generate income by selling 'forest conservation outcomes' from the Malua Forest Reserve in Borneo, to palm oil developers, energy firms and others. They anticipate yields on their investment in the region of 15-25%.[6]

But even those communities with legal land tenure may not benefit

Some local communities and Indigenous Peoples do have established land tenure, to some if not all of their ancestral lands. This is the case in Paraguay, Colombia and South Africa, for example. But these communities find it hard to participate and benefit on an equal footing, even if they want to; they can actually find themselves worse off for participating.

In South Africa, for instance, certified logging companies are obliged to consult and engage local communities, in part because post-apartheid land tenure arrangements mean that this is the only way they can gain access to more land. The fact that most of the rural land in South Africa is held under non-private forms of tenure means that individuals cannot sell the land as they wish (assuming they would want to do so). Singisi Forest Products, officially a collaborative enterprise involving business, government and local communities, does pay lip service to engagement with communities and even provides some funding in return for their engagement. But that funding is miniscule when divided up between the communities; and fails to compensate for the timber plantations' serious economic, social and environmental impacts. The community also points out that there have been unexpected constraints on the use of community funds (with timber-related projects being favored over local food production, for example).

South Africa also has a highly politicized and publicized program to indigenize the economy, through the government's so-called Black Economic Empowerment (BEE) (itself a form of market mechanism). Yet this is also failing to benefit communities and local people. Parent company Hans Merensky Holdings (HMH) celebrates its links with workers, a rural women's organisation and the Eastern Cape Development Corporation. However, what is rather surprising about these

[5] *Forests: a carbon trader's gold mine?* 7 May 2008, Climate News for Business, www.climatechangecorp.com/content.asp?ContentID=5305

[6] *Can wildlife conservation banking generate investment returns?* Rhett A. Butler, mongabay.com, November 27, 2007, http://news.mongabay.com/2007/1127-palm_oil.html

celebrated deals and partnerships is that the community in the South African case study knew nothing about this share-holding on their behalf, nor of any benefits that might have occurred because of it.

As a result of all this, there is animosity and a of lack of trust between the company and the community, based on a deep suspicion that the companies' 'Community Development Programmes' are little more than an attempt to manage community relations, with a view to ensuring access to the communities' land and cheap labor.

Similarly, in Colombia, the PROCUENCA project does not buy land itself, but persuades landowners to allow their land to be used. Still, PROCUENCA is founded on an unequal relationship because local participants lack political and economic power and are thus unable to incorporate negative externalities into the price of the goods and services they are selling. This in turn erodes their sovereignty and local self-determination, as the negative externalities are borne by local communities and the environment.

This inequality is exacerbated by a lack of accurate and comprehensive information that might enable communities to participate meaningfully in decision-making. Very few participants understood how the project income, generated by the sale of Certified Emissions Reductions (CERs) on carbon markets, would be distributed; and many had no information about the subject. They either did not understand the issue or failed to discuss it. Some local leaders even expressed ignorance about the existence of CERs.

Moreover, although individuals can participate in PROCUENCA and manage their plantations in an autonomous way, it is indisputable that this is conditional upon the constraints imposed by selling CERs on the carbon market. This drives the process, prices and approvals to the point that it creates a high degree of uncertainty, as has been voiced by the FAO (which manages the financial administration of the project). Thus participants cannot tell if the income generated will be enough to cover the loans they have taken out with the project in order to participate in it.
Furthermore, the PROCUENCA project gained access to land and began planting trees *before* it provided training to communities concerning the project's scope, functions, implications and requirements, and on technical aspects such as plantation maintenance. Overall, the role of local landowners in the management of the project is quite uncertain, even though they are the owners of both the land and the CERs.

Indigenous Peoples who want to participate in market mechanisms, and believe they may benefit from them, can find it almost impossible to do so. The bureaucratic know-how required to sell an environmental service is a significant hurdle for people who do not possess legal skills and who might not be able to properly read and write the official language of the country. The relationship between rural poverty and education is linear and most Indigenous Peoples speak a native, non-official, language putting them at a severe disadvantage in this respect. Another concern is that the vast majority of these Peoples of the forests are not familiar with the marketing skills required to sell 'environmental services' such as CO_2 sequestration, especially in complex and often turbulent markets.

These disadvantages mean that communities will almost inevitably be reliant on some external broker or consultant if they wish to participate; and that broker may well be a large conservation NGO. The intentions of these groups may often be laudable, but it would be dangerous to turn these private, often foreign organizations into formal tools for the implementation of national public policies as important as

those relating to equitable forest conservation. Aside from simply not having the scope and capacity to help every local community and Indigenous People in any given country in an equitable fashion, these organizations seldom have Indigenous rights or national social development as their primary mission.

The above-mentioned linguistic and technical difficulties are even more marked for women, who constitute the overwhelming majority – 70% - of the world's poor. As they dedicate a substantial amount of their labor to activities that are not financially compensated, like childcare and household activities, and as they are still discriminated against in labor markets all over the world, they tend to have much lower formal incomes than men: women's estimated earned income in comparison to men is 57% in industrialized countries, 40% in Latin America and South Asia and just 30% in the Middle East and North Africa.[7]

Women also own far less land than men, partly because they are excluded from inheritance in many traditional legal systems. Even in a country like Brazil, where they are not formally discriminated against in a religious or cultural sense, they still own only 11% of private land.[8] In some traditional cultures in other parts of the world, married women cannot own their own land or property at all. Because of this, they have less money and fewer capital assets and are thus disadvantaged in market economies.

Yet market-based mechanisms or projects do little to address this gender discrepancy. The design and implementation of the PROCUENCA project in Colombia, for example, is entirely lacking in a gender aspect that might ensure the full and effective participation of women, a recognition of their role in social transformation and acknowledgment of their contribution to the improvement of living conditions at the family, community and regional levels. The project lacks indicators to identify any tangible benefits that women might derive from it.

According to legal experts, Paraguay's PES law is inequitable because it requires that environmental impact assessments be conducted right at the outset. The prohibitive cost of such assessments immediately excludes many small and medium property owners, who are thereby denied any of the benefits that the PES scheme might otherwise bring them.

In Paraguay, the Nivaclé People of the Mistolar community explored the possibility of increasing their income by selling 'environmental services', within the framework of the PES Act. In 2007, they were fortunate to receive support from the Yvy Pora Foundation (a Paraguayan foundation which provides assistance to NGOs in the field of financial administration) to do the necessary viability studies for decision-making, which they would not have been able to afford on a purely commercial basis. But after two years of hard work calculating and documenting the environmental 'services' their land use activities would deliver, they eventually concluded that there were structural problems in the current PES law that made it virtually impossible for the community to receive compensation from it. The practicalities of conforming to PES requirements – which include presenting proposals and projects; determining the baseline; compliance with the norms on environmental impact assessments and calculating the value of socio-economic convenience of the PES mechanisms for the community - are still far too costly for communities.

Indigenous Peoples have also identified the following related challenges: geographic isolation, discrimination and social marginalization, expropriation of

[7] *State of the World's Children 2007, Women and Children, the Double Dividend of Gender Equality*, UNICEF, 2006, http://www.unicef.org/sowc07/
[8] UNICEF, ibid.

their ancestral territories and lack of land and natural resources.

The large tracts of land that individual landowners hold also have a considerable competitive advantage over collective territory controlled by (sometimes loosely defined) communities, since decision-making is,

Farmers crossing the river Chinchina in the low part of the river basin, Colombia.

by definition, a much simpler and swifter process for individual owners.

In India, for instance, community-owned ecotourism initiatives are experiencing similar difficulties in that they are still playing a marginal role compared to schemes developed by large, often global, tour operators. The communities view ecotourism as a way of supplementing their livelihoods. Yet even so it is extremely hard for them to hold their own in this fiercely competitive market. There has also been little governmental support for community-owned initiatives. Quite the opposite in fact: the authorities have tended to promote other versions of tourism as ecotourism, even if they have no semblance of conservation.

The case study in Costa Rica also demonstrates that the private appropriation of traditional knowledge or plants via intellectual property mechanisms is extremely complex, making any sort of informed community engagement very difficult. A further significant issue is the fact that resource 'ownership' is a concept alien to Indigenous cultures and this has also created confusion: how can - and indeed why should - something that has been part of a People's culture, which they have always shared amongst themselves and with others, be appropriated by outsiders?
In the villages of the Ngobe Bugle peoples in Costa Rica, biodiversity is an essential element in everyday life. From it, villagers get medicines, food, materials to develop their crafts, their legends and much of their history. This active traditional knowledge has been shared freely. Today, however, because of the threat that their knowledge is being appropriated for others outside their village, the very act of sharing is being eroded.

Local communities can find themselves saddled with unexpected liabilities

Participation in market mechanisms can also mean that local communities or Indigenous Peoples can find that they are liable for a project's risks, perhaps unwittingly so. To a great extent this depends on whether they are able to participate in initial negotiations on an equitable and informed basis.

The PES Act in Paraguay, for example, raises tricky questions. What happens to the Indigenous Peoples, small farmers and even small and medium property owners that sign contracts to enter into environmental services schemes, if they fail to deliver as specified in the contracts, or if they have to bear the risk of the project failing for external reasons (forest fires, for example)? The answer to this is unknown at present.

Similarly, the South African case study points out that whilst large timber companies can usually absorb the costs of fires and other large-scale damage to forests, individuals planting trees on private farms or communal land, with a view to selling them to timber companies, are unlikely to be able to absorb these costs, especially as the cost of insurance can be prohibitive. Local communities in South

Africa have also found their bee-keeping activities are unpopular with the timber company because of the increased risk of forest fires. As 'business partners' they are encouraged to work with the company to use proper bee-smokers. But, if not, the company says that "*The other alternative is to hunt out all beehives and take them out.*" This unsympathetic attitude to communities also demonstrates how easily companies can sidestep the criteria underpinning a market mechanism such as the FSC (which supposedly indicates a company's commitment to maintaining or enhancing the long-term social and economic well being of forest workers and local communities).

The potential implementation of numerous projects to ensure 'Reduced Emissions from Deforestation in Developing Countries' (REDD), which is being discussed within the UN Framework Convention on Climate Change (UNFCCC) negotiations, could have similar impacts. It has been suggested that considerable sums of money, including for local communities and Indigenous Peoples, could be generated, possibly through the inclusion of REDD in compliance carbon markets.

But here again, whatever the sums of money available in the end, it is likely that project owners will have to shoulder the liability for failed projects. Most payments will either be '*ex-post* payments' (paid after the delivery of credits, because of the methodological uncertainties associated with REDD), or will have stringent risk assessments and contractual liability arrangements attached to them. Both scenarios would be particularly onerous for smaller projects, meaning that they have to find start up capital, sell cheap 'temporary' carbon credits or finance expensive insurance policies in case the project fails. Again, there are all difficulties that large companies can deal with much more easily. It has also been suggested that this entire process will marginalize smaller operators into illegality.[9]

The losses experienced by communities may outweigh any benefits

Any local communities, Indigenous Peoples and women who opt to participate in market mechanism negotiations or agreements generally start off in a weak negotiating position, because of a lack of linguistic, technical and legal skills and because of an overriding need or desire to improve their financial position. They may also be unaware of the full consequences of any agreements that may be made.

In the South Africa case study, for example, the US$4-500,000 so far earmarked for community development is to be shared by all the communities in all areas where Singisi Forest Products does business. Based on a conservative estimate, there are 300 communities of the case study community's size, so this works out to approximately US$1,500 per community. Thus, even if the money were to be well and fully spent, there is little likelihood that it would in any way compensate for the negative impacts that the timber plantations have on employment and economic and social well-being in the communities, or make up for the land they have lost the use of.

Even though they are FSC-certified, HMH and Singisi Forest Products are failing to make their activities socially sustainable; and the formal involvement of communities does not seem to be stemming the tide of negative economic and social consequences being experienced by local people. Rather, their involvement and the constant hope of financial gain prevents them from speaking out about current woes.

[9] *Can forest carbon finance stop deforestation?: a critical review of proposed REDD mechanisms*, Ronnie Hall for Friends of the Earth International, to be published in 2008, www.foei.org

Flora of the region, Colombia

Market mechanisms undermine legislation on local self-determination

Critically, because market mechanisms generate significant levels of profit, both for private companies and national governments, existing and nascent legislation intended to promote local self-determination, especially by Indigenous Peoples, is being sidestepped.

In India, for example, the Constitution provides protection to the Indigenous People living in 'Scheduled Areas' and gives them the right to self rule, reinforcing their rights to territorial integrity and to decide their own path of development. It forbids the transfer of tribal lands to non-tribals and corporate entities.

It also paved the way for a separate and progressive legal and administrative regime for tribal areas to ensure genuine tribal self-rule, in relation to, for example, the acquisition of land for development projects, the regulation of land use and the construction of buildings. Similarly, *panchayats* have the right to license tourism projects, buildings and activity areas, and to reject a license to the tourism industry if it refuses to cooperate. They are also enabled to monitor tourism businesses in relation to the exploitation of labor and natural resources; and to initiate criminal procedures regarding the exploitation of women and children, including through child labor, by the tourism industry.

However, in practice, local self-government is constrained by the lack of adequate transfer of powers and resources, their inability to generate sufficient resources, and the non-representation of women and weaker sections of the community in elected bodies.

Furthermore, there are several instances across India where ecotourism ventures and activities are promoted without the consent of local self government institutions. Often the *panchayats* only become aware of plans at the implementation stage, when developers seek a token 'No Objection Certificate' to go ahead with construction. At this stage, the *panchayats* feel they cannot refuse, because clearances have already been given by other departments. The tourism industry and higher authorities such as the Tourism and Forest Departments have usurped their functions, bypassed due processes and overruled decisions of local self government institutions.

A further example of unilateral decision making by state governments in India is in the matter of allocating land for ecotourism purposes. Whilst diversion of forest land for ecotourism purposes is done only by the Forest Departments, when they themselves undertake ecotourism development

activities, non-forest land such as farm or grazing land is leased out to private developers by the governments either by acquiring it from local authorities or simply by leasing it in their name. This even happens in Scheduled Areas, even though it is not permissible under the Indian Constitution.
Similarly, in Costa Rica, the private Institute for National Biodiversity (INBio) has been bio-prospecting in conservation areas. However, according to information given by the executive director of the National Commission for the Management of Biodiversity (CONAGEBIO), a public organ entrusted to deal with requests for access, no authorization has ever been granted to INBio or other organizations or individuals to operate in indigenous territories. Still, some indigenous people have said that at times, people have wandered into their communities in search of plants or asking them about traditional medicines. In other words, there is at least anecdotal evidence to suggest that illegal bioprospecting activities have been undertaken. As NGOs stated many years ago, bioprospecting is like searching for a needle in a hay-stack, yet many Indigenous People know exactly where to find the needle.

Engaging in market mechanisms can alter community governance and create conflict

The decision to engage in an external, monetary mechanism can have significant impacts on communities' internal systems of governance, and can cause conflict both within and between communities.

In Paraguay, for instance, the sale of 'environmental services' could result in grave governance problems for Indigenous Peoples, since it is not always clear if the chief of a community has the mandate to be a legal representative for such contractual arrangements.

Similarly, in Costa Rica, conflicts have flared up in some indigenous villages because some people in the community have chosen to sell medicinal plants or share their knowledge in exchange for financial gain even though this is frowned upon by the rest of the community. It is important to bear in mind that these conflicts are driven by people's need to generate income – and that there are non-indigenous people who are aware of and ready to exploit this situation to acquire the knowledge they seek. These internal decision-making difficulties can be even more pronounced amongst Costa Rican peasants and fishing communities.
Even where there is no conflict, community governance, including over biodiversity, can be impacted. In Colombia, for example, the PROCUENCA project reduces people's autonomy over their own lands, both in terms of which species are planted and how plantations are managed.

The position of women within communities is also likely to be affected, as their interests are more likely to be over-looked in commercial transactions, which are normally closed by men (even if the women previously had the main responsibility for managing the community's forests and biodiversity). Women also have a disadvantageous position in monetary economies in general, as they spend a significant part of their time on activities such as childcare and household management, that are not rewarded in monetary terms. Moreover, they are generally underpaid in the formal labor market, as well as being responsible for providing clean water and other non-monetary goods for the family.

In general, it is worth noting that transforming the current non-monetary economy of the Indigenous communities into a monetary one tends to have profound impacts on cultural and environmental values and traditions.

Market mechanisms have a significant impact on food sovereignty and water security

It is hard to envisage net benefits for communities if market mechanisms are simultaneously destroying their ability to feed themselves and access clean water.

In South Africa, the push to plant more and more timber trees on communal land is a major threat to food sovereignty in the region. The poor soils and low levels of rainfall already pose problems. The extension of timber woodlots of alien tree species into the communities' land means that significant areas of land are being diverted away from food production. These sometimes invasive tree species can also lead to reduced surface water, loss of the biodiversity resources used in traditional medicine and an increased risk of fire. Meetings with the Youth Forum and some community members also revealed their belief that non-timber community projects are not welcomed by the company.

In the same way, in India, resorts, lodges and hotels have grown up on the peripheries of Protected Areas; and governments acquiring and leasing land to private corporations and entrepreneurs has led to the privatization of common property resources. This has resulted in communities' losing the benefits of forest produce and, in some cases, pastureland.

An increased commercial presence can create additional burdens for local government and rate payers

The appearance of sizeable commercial operations in a neighborhood can also place heavy burdens on local authorities and tax payers.

In the South African case study, for example, meetings with local government officials revealed a deep-seated concern about the demands that the timber company in question places on local ratepayers and local government. Singisi Forest Products is building a giant new US$176 million timber factory cluster at nearby Kokstad, which will replace the older Singisi Mill. The establishment of the larger mill is problematic, however, because it has implications for the municipality's ability to meet both the needs of the people and the company's service requirements.

Kokstad is a poor, rural municipality with a very low tax base. It also lacks basic infrastructure, making service delivery extremely difficult, both logistically and financially. Kokstad also has a poor water supply; and has already had to spend precious finances upgrading its electricity supply capacity to cater for the mill.

Local officials doubted whether the limited benefits of this planned expansion could possibly outweigh the costs, in terms of water and energy demand, that poor, local ratepayers would have to subsidise.

Local communities in India have had exactly the same experience with ecotourism initiatives, with *panchayats* being forced to go beyond their mandate of providing essential public services to local people, without any extra funds being provided from the state government. Thus, for example, the *panchayats* find themselves obliged to cater to the needs of tourists by dealing with the waste (and especially solid waste) left by tourists; and by extending the basic amenities that exist for local people, such as public toilets.

Economically powerful actors dominate conservation policies and priority-setting

Market mechanisms are generally based on negotiation between various participants and are thus influenced by power structures. As such, they are highly attractive to large, influential private companies, who are in an advantageous negotiating position right from the outset.

Additionally, powerful actors are more likely to attempt to influence (or even ignore) the rules of market-based mechanisms, because of the very significant financial returns that might be generated as a result; and some market mechanisms have even been designed so that companies can now buy their way out of infringements of environmental laws. All offer significant financial rewards, attracting all kinds of investors, ethical or not, private and public. Market mechanisms are also particularly attractive to corrupt governments, since they are both profitable and complex, meaning that new sources of finance can easily be diverted to corrupt officials and their allies.

In Costa Rica, the private Institute for National Biodiversity (INBio) has enjoyed a very close relationship with successive Costa Rican governments, who have worked (effectively on INBio's behalf) to legitimize bio-prospecting at a global level. This close relationship has undoubtedly been beneficial to both sides: the government began to appoint INBio as the country's representative in international relations and INBio's business deals continue to fuel the image of Costa Rica as a country dedicated to conservation.

However, INBio was not the only beneficiary. A communiqué emanating from the Convention on Biological Diversity (CBD) in 2002 used the relationship between INBio and Diversa, then a US-based industrial biotechnology company (now merged and focusing on biofuels), as an example of access and benefit sharing, saying:

"Under the terms of the agreement, Inbio collects specimens using their own techniques and ones provided by Diversa as well. InBio guarantees that this technology will not be used to collect and process specimens for other companies. The entire DNA sequence that InBio isolates for Diversa will become the property of Diversa. All material isolated from these sites remain under the ownership of Costa Rica. Diversa pay the wages and other extras of at least one InBio staff member. It also pays profits to Inbio in the event that Diversa license a product to a customer from samples obtained from InBio. InBio receives access to technology, equipment and the creation of capacity ..."

The benefits to Diversa are clear. But the benefits accruing to INBio are uncertain, especially in relation to benefits that might or might not be generated if products are developed in the future. In terms of immediate benefits, all that is on offer is a staff member, technology, equipment and capacity, all to be used for the provision of genetic materials to Diversa.

South Africa provides a clear example of how easy it is for companies to sidestep market mechanism rules without penalty. Timber workers are becoming poorer and poorer as work is being sub-contracted out. Even though the FSC's Principle 4 requires that companies ensure that "*Forest management operations shall maintain or enhance the long-term social and economic well being of forest workers and local communities"* timber workers in the case study were unequivocal about the fact that remuneration for their efforts was going *down*, and they were seeking better wages, protection against injury on the shop and plantation floor, a pension and health scheme, security of employment and other labor-related guarantees.

Similarly, in Colombia, the case study recorded bitter complaints from the community about forests that were regenerating being classified as 'stubble' so that they could be logged and replaced with plantations as part of the PROCUENCA project. Because of these concerns, and because of attempts to establish plantations in protected areas as part of the PROCUENCA project, the local government of Villamaría eventually

Manifestation against large-scale soy production and the Roundtable on Responsible Soy. Photo: Sobrevivencia

decided not to participate in any more direct reforestation activities involving PROCUENCA (although it does sometimes participate in other project activities).

Finally, Paraguay exemplifies the way in which a corrupt government and oligarchy and its business allies can benefit from a market mechanism. Paraguay's Payment for Environment Services scheme is mainly funded with biodiversity 'offset' payments, which are financed by businesses whose activities have negative environmental impacts elsewhere in the country. An offset margin of up to 10% of the budget of a project is required if an infrastructure project causes significant environmental impacts. In other words, the Paraguayan PES scheme legalizes a broad range of environmental offences.

The Act also absolves landowners that have broken the forestry law (Forestry Act No 422/73), which stipulates that at least 25% of a landowner's holdings must conserve forest cover. According to the law, landowners can also compensate for this violation by buying biodiversity offset certificates. At the same time, those landowners who *have* complied with the deforestation ban and conserved 25% of their land with forest cover are compensated and could receive payment for what were supposed to be obligatory actions to maintain 'environmental services'.

In countries like Paraguay, corruption has been a widely-recognized problem (although Paraguay itself now has a newly installed government with a reputation for honesty and probity). Nevertheless, in countries where corruption is rife it is likely that politically influential groups will enjoy greater access to funding than politically marginalized groups such as Indigenous Peoples and small farmers. Bad governance and market-based conservation mechanisms are a dangerous combination.

In conclusion, the five case studies demonstrate that market mechanisms can have wide-ranging negative impacts on community governance, even for those communities wishing to participate.

LIFE AS COMMERCE:

Carbon sinks in Colombia

CENSAT
AGUA VIVA

The full case study can be found at:
www.globalforestcoalition.org

Summary

The Clean Development Mechanism (CDM) is an arrangement under the Kyoto Protocol which allows industrialized countries to invest in projects that reduce emissions in developing countries as an alternative to more expensive emission reductions in their own countries.

One of the ways in which emissions can be 'reduced' is through 'carbon sinks', such as tree planting projects. Carbon sinks are also supported through the so-called voluntary carbon offset market outside the Kyoto Protocol, and World Bank initiatives like the Biocarbon Fund.

An example of a carbon sink is the PROCUENCA project in Colombia. PROCUENCA is a forestry project first established in 2001 that is formally aimed at regulating and improving the quantity and quality of fresh water by restoring the Chinchiná River watershed through natural assisted regeneration and reforestation, focusing on preventing erosion in areas of hydric importance including wetlands (*humedales*) and river and stream banks.

These areas have been threatened by uncontrolled deforestation and the extension of the agricultural and cattle frontier over the course of the last century. Project activities include the establishment of forest plantations, agroforestry, sylvopastoral systems and assisted natural regeneration.

PROCUENCA also has other environmental, productive and social objectives. For example, significant increases in timber production are a clear outcome of the project, as was intended in the first place. Also, with respect to the environment, the project aims to increase local biodiversity and improve the connectivity of strategic ecosystems.

Additionally, PROCUENCA is supposed to strengthen both human and social capital, foster environmental awareness and encourage local people to get involved in activities to improve the quality of life locally.

PROCUENCA is partially funded through Certificates for Forest Incentives (CIFs), a national financial mechanism specifically intended to support landowners establishing plantations, by providing subsidies to assist with the cost of establishing and maintaining them.
Since the plantations are also expected to sequester a certain amount of carbon, financing from the CDM has been requested. The regulatory carbon market currently seems to be at an impasse, however, with nearly 2,000 CDM greenhouse gas reduction projects reportedly facing a wait of more than two years to acquire accreditation. As a result PROCUENCA, seeking some kind of compensation through the markets, is selling credits on the voluntary markets.

Colombian NGO CENSAT conducted a case study of the PROCUENCA project. It found that although the project is appreciated in the region it does have some significant negative impacts on local communities and their sovereignty over local biodiversity. For example, a majority of the landowners questioned reported that they were not able to choose what species to plant or how to manage their plantations.

There were also bitter complaints from the community about forests that were regenerating being classified as 'stubble' so that they could be logged and replaced with plantations. Because of these concerns, and because of attempts to establish plantations in protected areas as part of the PROCUENCA project, the administration of Villamaría eventually decided not to participate in any more direct reforestation activities involving PROCUENCA (although it does

Project plan which shows areas marked as natural forest even though they contain pine. Procuenca.

sometimes participate in other project activities).

CENSAT Agua Viva also found that the use of CIFs – Forestry Incentives Certificates - has created financial difficulties for participants, especially for the smaller landowners that chose to participate in the project and applied for a CIF. This is because the landowners participating in PROCUENCA are contractually obliged by the project to channel the funds straight to the project to cover some of the debts incurred. This leaves the landowners with a wait of up to 20 years for returns on their new plantations, and a reduced area or no land on which to grow coffee or potatoes or raise cattle to sell (as many had previously) or produce food for their families.

The PROCUENCA project also lacks any focus on gender in its design and implementation, ignoring the fundamental role of women and their contribution to the improvement of living conditions in households, communities and regions.

The PROCUENCA Project

PROCUENCA is a project to reforest and restore the Chinchiná river basin in western Colombia. The project, which started in 2001, was initiated by the municipality for the city of Manizales and is being carried out via a cooperation agreement with the UN Food and Agriculture Organization (FAO). The Manizales Financing and Development Department (INFI) is responsible for carrying out the project, while FAO oversees administrative and financial aspects. The first execution phase of the project ended in July 2007.

The agreement signed between FAO restricted the area covered by the project to a strip located between 1,900m and 3,000m above sea level, but it has now spread throughout the basin. The project area encompasses land under various uses, including coffee, potato and cattle production, and aims to create a biological corridor to connect fragmented forests in productive areas. Restoration, reforestation, water flow regulation, biodiversity conservation and employment are all predicted benefits of the project.

The Chinchiná river basin has problems of deforestation and depleted soil, caused by the pressure of migration and the transformation of forests into livestock pastures. Whilst the latter

have indeed been identified as causes of degradation in the basin, it should be noted that the land was originally converted from forest into coffee cultivation. The municipalities in the project rank among the largest coffee producers nationally, but as a result of the economic crisis facing the coffee sector, farmers have increasingly started to use the land for livestock pasture.

Commercial forest plantations have been established, using different models such as block, mixed plantation, linear, wild pasture and agroforestry. Both native and exotic species are planted, but the majority are exotic.

The project's goals are to consolidate a process of sustainable forest development in the Chinchiná river basin with the multiple aims of ensuring the regulation of water and the conservation of biodiversity, along with the creation of alternative industries, especially in relation to timber production, and employment for the city and region.

An additional goal is the capture and storage of carbon dioxide (CO^2) by planting trees.

Certificate of Forest Incentives (CIF)

The PROCUENCA project gets official budgetary resources from the Municipality of Manizales/FAO agreement, but also receives national government subsidies, in the form of Certificates for Forest Incentives. These are a cash contribution towards the costs incurred in the planting and maintenance of monoculture plantations for the production of timber and other wood products.

CIFs were established through Colombian Law 139, introduced in 1994. Its overall aim is to secure direct investments in new forest plantations. To this end the government gives incentives of up to 75% of total net costs for the establishment of a plantation, depending on the species used, and up to 50% of the total net cost of maintenance up until the fifth year. CIFs entitle a person to obtain any benefit directly at the time of the plantation's establishment. The certificate is personal and not negotiable.

A number of community leaders were surveyed to find out how their families and neighbors were getting on with replacing their coffee crops with forest plantations under PROCUENCA. The survey found that the resources from CIF went to the local Development Corporation towards repayment of project debts, even though Colombian law establishes that the landowners are the rightful recipients of the money.

Table 1: estimated rates of carbon storage

Timescale	**Carbon stored (metric tonnes of CO2)**
Up until the end of 2007	162,000
Until 2012	1,853,554
After a period of 20 years	4,425,027

Farmers investing in plantations are thus finding themselves in a difficult economic situation because they will have to wait up to 20 years to generate an income from selling wood, whilst being unable to use the land to grow food for their families. The fact that the money does not go directly to the owner of the land, coupled with a lack of clarity concerning the management of resources, has resulted in serious problems for some landowners, primarily those with small plots of land.

Owners also expressed a number of other anomalies associated with CIFs, including not receiving incentives payments three years into the project and not knowing the amount to which they were entitled.

There were also bitter complaints from the community about the 'stubble' issue. For example, in Cuchilla de Corozal (in the Villamaría municipality), regenerating forests were classified as stubble: this made it possible for them to be logged in order to establish plantations in their place. This contravenes Article 5 of the 1994 CIFs law, which states that plantations cannot generally be established anywhere where there is natural forest, or even where there has been natural forest in the preceding five years. However, the case study analyzed numerous PROCUENCA contracts and found clear evidence that some of these are on land that was previously covered with natural forests.

Because of concerns such as these, and because of attempts to establish plantations in protected areas as part of the PROCUENCA project, which were related by diverse landowners and municipal administration officials, the council of Villamaría decided not to participate in any more reforestation projects involving PROCUENCA.

Moreover, although individuals can participate in the project and manage their plantations in an autonomous way, it is indisputable that this is conditional upon the constraints imposed by selling CERs on the carbon market. This drives the process, prices and approvals to the point that it creates a high degree of uncertainty, as has been voiced by the FAO (which manages the financial administration of the project). Thus the role of local landowners in the management of affairs is quite uncertain, despite being the owners of the certificates for reduced emissions.

Impacts of plantations

Field work and structured surveys conducted with local leaders and people affected by the project revealed multiple negative impacts of plantations, including:

- Impacts on public indebtedness
- Deforestation and degradation of forests
- Regeneration projects stopped/ interrupted
- Reduction of food security as land is taken from agriculture to forestry plantations
- Loss of native species
- Impacts on soil, especially through landslides, potholes and erosion, probably caused by the removal of large trees
- Degradation of springs and local watercourses used for water supplies, including by local utilities
- Phytosanitary impacts, especially disease and death of trees
- Fragmentation of ecosystems
- Export of soil nutrients
- Negative effects from continued emissions
- Impoverishment and unemployment of local people

The fact that external costs are not included in the price of timber exports means that these will accrue over time, thus becoming environmental liabilities, including the loss of forests, natural assets, biodiversity and the environmental functions of ecosystems.

Workshop with students and communities of the river basin in Colombia. Photo: Diego Alejandro Cardona

Social and Cultural Analysis

Many local people are in favor of PROCUENCA, largely because of the positive information disseminated about it. Equally, however, there are sectors of the local communities that are critical about the way in which the project is run and the impacts it has.

PROCUENCA is intended to have numerous social benefits: strengthening both human and social capital as well as fostering environmental awareness and encouraging local people to get involved in activities to improve the quality of life locally.
However, the published results of the first phase of the project only give numerical indicators on the social components of the project (numbers of events and attendees, for example, or of partners, visits and tours). This provides a quantitative assessment, but sheds little light on the quality, impact, or scope of the results presented.

One case in point is the origin of the project proposal itself (which did not come from the local communities). The use of mechanisms designed to facilitate international commercial negotiations, in which the economic and business interests of business take precedence over those of the community can be questioned.

Only 27% of owners surveyed knew how the income generated by the sale of CER's will be distributed (although even those respondents cited various different percentages, which rarely coincided with those offered by the project itself). Other owners had no information about the subject: they either did not understand the issue or failed to discuss it. Some local leaders even expressed ignorance about the existence of CERs.

It seems that peasants and landowners are involved in the project without having enough clarity concerning the economic benefits they might get, including what percentages of the profit from CER sales they are entitled to. Thus they cannot tell if the income generated will be enough to cover the loans they have taken out with the Project in order to participate in it. In this way, the autonomy and sovereignty of these communities is affected:

insufficient information is undermining local communities' political power and capacity to participate fully in decision-making.

Clearly, for the project to achieve meaningful participation, important information needs to be presented in an accessible way so that the people involved can understand it. The publication of technical documents is insufficient.

Landowners involved in the project can choose how to use their land, but there is no equivalent degree of self-determination when it comes to choosing which species to plant or how to manage their plantations. When the owners were asked: "Can you freely manage your properties, means of production, use and choice of species?" 64% of those surveyed responded negatively, saying they had no autonomy concerning the use of their land and that they had to comply with recommendations or conditions imposed by PROCUENCA.

Focus on gender

The PROCUENCA project lacks a focus on gender in both its design and implementation. It ignores the fundamental role of women and their contribution to the improvement of living conditions in households, communities and regions. This means that the project cannot fulfill all of its social change objectives.

The project initiation document contains no criteria or indicators for assessing whether women will benefit from it.

46% of those who responded to CENSAT's survey did not identify any role for women in developing the project. Among the respondents who did identify roles for women, 43% mentioned some form of indirect participation, such as women participating because they had inherited land or women being delegated to take part in meetings by their husbands. Among those who did recognize women's role in the development of the project, 14% based this on the fact that women are the legal owners of some land, even though they do not take an active part in any planning or decision process related to it.

Phytosanitary state of alder (Alnus jorullensis) plantations, Colombia. Photo: Diego Alejandro

Creation and quality of employment

People living in the project area have limited access to employment. In the first quarter of 2008, the unemployment rate in the city of Manizales stood at 13.2%, higher than national average of 12%. PROCUENCA's potential for job creation thus created high expectations in the area.

In the first phase, the project is reported to have created the equivalent of 2,000 jobs annually. And indeed, 77% of respondents have received some kind of employment as a result of the project. However, the quality of the jobs created needs to be assessed, along with the extent to which they really contributed to alleviating unemployment and improving the quality of life for local

inhabitants.
91% of the land owners who have established plantations underline the fact that the jobs created or foreseen are temporary. Labor is mostly needed in the initial stages, for soil preparation, cleaning, hoeing and planting, amongst other tasks. After this, the need for labor decreases. 36% of owners stated that work is offered on a daily basis only, with no social security provision.

Community assessment of PROCUENCA's social development

Settled communities in the project's catchment area were consulted on their assessment of the project's contribution to social development.

Unfortunately 27% of owners directly linked to the project failed to respond on this subject. This could suggest that some people in these communities do not feel they derive any specific social benefits from the project. However, 78% of landowners participating in the Agroforestal group (set up to facilitate participation of the landowners in decision-making and commercialization of carbon credits and forestry products) did mention aspects of logging and sales as perceived economic benefits. 33% of them also mentioned training for Agroforestal associates.

Government officials involved with the project claimed good progress on community participation. This is at odds with the vision of community leaders, who said project officials only had limited contact with landowners; the project did not extend benefits to the rest of the community; and that they had low levels of responsibility for the project in their areas. The closure of local project office was also cited as a problem.

Those that assessed the social development component as 'very poor', gave reasons that included the unsuitability of staff working with the communities; the abandonment of initiatives involving orchards; and the transfer of responsibilities and the organization of activities to the landowner.

As has been seen, training provided by the project is one element respondents found positive. Nevertheless, 36% had not heard of the School of Forestry Leadership, which provides training as part of the project; and 45% had not participated in training. 55% thought that the School had failed to improve conditions for families and communities.

The Project does not buy land itself, but persuades landowners to allow their land to be used. This makes it doubly inappropriate that the project gained access to land and began planting trees before it provided training to communities concerning the project's scope, functions, implications and requirements, and on technical aspects such as plantation maintenance.

Finally, neither the results of the project, nor the views of the landowners involved, really suggest that the project has raised capacity or increased people's knowledge and skills to such an extent that they can fully participate in the project.

Conclusions

Project PROCUENCA, designed in part to capture carbon, has been developed by felling naturally regenerating forests to make way for commercial plantations. It thus fails to achieve its environmental objectives, and clearly demonstrates how this particular market-based approach can be an inefficient means of conserving biodiversity. Furthermore, it clearly reduces people's autonomy over their lands, both in terms of what species are planted, how plantations are managed, and whether there are reasonable financial returns generated by the project's activities.

PROCUENCA is founded on an unequal relationship. One of the reasons for this is the fact that local participants lack political and economic power and are unable to incorporate negative externalities into the price of the goods and services they are selling. This in turn erodes sovereignty and local self-determination, as the negative externalities are borne by local communities and the environment. This is exacerbated by the lack of accurate and comprehensive information that might enable communities to participate meaningfully in decision-making.

In its design and implementation the project also lacks a gender aspect that might ensure the full and effective participation of women, a recognition of their role in social transformation and acknowledgment of their contribution to the improvement of living conditions at the family, community and regional levels. There are no indicators to identify any tangible benefits that women might derive from the project.

The case study also demonstrated that projects that were never intended as carbon sinks projects are still able to apply to and qualify for funding from the Clean Development Mechanism.

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Landslide or collapse in region of project case study "Procuenca", Colombia. Photo Diego Alejandro Cardona

CENSAT Agua Viva - Friends of the Earth Colombia is an environmental organization, working to develop and construct sustainable societies based on environmental justice, energy, ecological and food sovereignty.

The work is developed at both urban and rural levels in diverse regions of the country, including with Indigenous Peoples, afrodescendents, campesinos and campesinas, young people and women. Some of its themes include: Water, Energy, Climate Change, Mining, International Financial Institutions, Debt, Agroecology/Forests and Biodiversity.

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Life as Commerce: Certification in South Africa

TIMBERWATCH COALITION

The full case study can be found at:
www.globalforestcoalition.org

Summary

Certification is intended to ensure *"sustainable forest management… based on environmentally, socially beneficial and economically viable management of forests for present and future generations,"* according to the Programme for the Endorsement of Forest Certification (PEFC). The Forest Stewardship Council (FSC) says its mission is *"to support environmentally appropriate, socially beneficial and economically viable management of the world's forests."*

FSC's Principle 6 states: *"Forest management shall conserve biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest."*

Despite these fine sentiments, global deforestation has accelerated to unprecedented rates since the inception of 'forest' certification – as has the destruction of agricultural land and natural areas, as new tree plantations have been established.

The South African NGO coalition Timberwatch undertook a case study looking at the timber plantation and saw-milling operations of a South African company, Hans Merensky Holdings (HMH), and its subsidiary, Singisi Forest Products (SFP) which have been certified by FSC. HMH is locally unique in some respects, particularly in terms of the political and historical context within which it operates. However, it is possible to derive some general conclusions about its use of the FSC system, in terms of how it impacts on the local economy and biodiversity; with respect to whether or not local communities have benefited from the company's engagement in the FSC process; how it has impacted on community governance over their own lands.

Tree plantations in South Africa

Since early in the twentieth century, consecutive South African governments and timber industry players have pursued the planting of large-scale monoculture plantations of alien tree species in areas where sufficient rainfall and adequate soil quality could sustain their growth. The apartheid government was a key player, with hundreds of thousands of hectares of pine and gum owned by the parastatal South African Forest Company Limited (SAFCOL) and substantial plantations in the tribal homelands it had created.

Restructuring by government has led to the consolidation of the sector in the hands of few giant players, side-lining smaller players. Privatization has also resulted in the retrenchment of many workers, through the outsourcing of labor and service contract arrangements. The expansion of the sector to meet increased global demand for timber products has also led to the increased use of land and water resources which are required for food production and local food security.

The area under managed timber plantations in South Africa is reportedly somewhere between 1.34 million and 1.8 million ha. In addition to these formally managed plantations there is a further area estimated to be in excess of 1.6 million ha covered by 'feral' plantation trees. The government is currently fighting the spread of alien invasive tree species that impact on river catchments and can displace indigenous plants and animals, through a program called 'Working for Water'.

The restructuring of the plantation sector coincided with the growth of the certification movement, and market access in the timber sector became dependent on obtaining certification.

Thus many players in the plantation sector bought into the FSC certification system for purely economic reasons. The area of land under FSC-certified

Worker transport. Photo: Wally Menne, Timberwatch Coalition.

plantations now extends to some 1,551,470 ha – reportedly more than 80% of all managed timber plantations in South Africa.

The timber industry has also been quick to use the threat of climate change to justify the establishment of plantations because of their claimed carbon sequestration capacity.

FSC certification was adopted so swiftly in South Africa that it was actually implemented without a national FSC standard and with very little government intervention, allowing complacency and dishonesty to develop within the sector.

Once certified, some companies seem to believe they are entitled to do even less than before to protect the environment and their workers, and continue to pursue profitable cost-cutting and expansion programs.

Hans Merensky Holdings and Singisi Forest Products (Pty) Ltd

During the 1990s, the South African timber industry was restructured and government-owned plantations were sold off. The official intention was to recoup state capital resources and transform the role of government from timber industry player to impartial regulator. However, the eventual establishment of a community-company-government consortium of interests, involving HMH, which appears to have sold some 42.6% of its shares to the South African Government, means that the government remains heavily involved in the timber sector.

The Eastern Cape North sale, which went through on 1 August 2001, saw the transfer of 60,000 ha of plantations and a large sawmill to Singisi Forest Products. The government considered this to be *"a great milestone in the history of South Africa forestry because it is the first time that black South Africans have become shareholders in a forestry company."* In addition, the Singalanga Trust, representing 163 communities, took ownership of 10 percent of the shares and was thus represented on the Board. This case study aims, in part, to assess the extent to which local communities have or

have not benefited from their 'involvement' in the timber industry.

HMH has certified operations in Limpopo province – Northern Timbers (15,000 ha) – as well as in southern KwaZulu-Natal province – Singisi Forest Products (SFP) (69,526 ha). Northern Timber's plantations have been FSC-certified since 2000, and the SFP's plantations since 2003, with SGS Qualifor as the certifying body in both cases.

HMH and Singisi Forest Products were chosen as the focus for the case study after complaints had been received about their operations, and because of the stake held by the Industrial Development Corporation (IDC), a wholly owned government entity within the South African Department of Trade and Industry.

The sale of state-owned plantation assets to HMH in 2001 was conditional upon obtaining FSC certification, and it is believed that there must have been inordinate pressure on both the certification body and HMH to ensure that the certification was awarded.

Timberwatch was invited to participate in the re-certification audit of Northern Timbers at the end of 2005. Questions submitted to the auditors were not satisfactorily answered – and perusal of the re-certification audit documentation revealed some glaring inaccuracies. In January 2006, Timberwatch members visited the area to view plantation operations and natural forests. Whilst there, they photographed examples of poor plantation practices and interviewed local environmental stakeholders.

This case study took place in Singisi, a rural district outside the town of Kokstad. It is an area of intense poverty, spanning the border of two poor provinces, the Eastern Cape and KwaZulu-Natal. Both provinces are predominantly rural and characterized by large income gaps, with great disparity in social and economic well-being. There are many crowded, poorly-resourced areas, whilst large farms are mostly owned and operated by white farmers. Poor communities are largely self sufficient at the moment, but this could well change if more of their land is taken over for further industrial plantations of trees or agrofuel crops.

Research for the case study involved interviews with various stakeholders, including community members and small timber operators in the Harding and Kokstad areas, and attendance at a tribal council meeting, where Singisi's Community Development Manager, Charlie Scott, addressed the community leadership.

New plantations and the land question

One of the key social and economic issues of plantation activities is that of land availability for community production and reproduction. By their nature, plantation activities require a great deal of land. Such land was acquired through forced removals during apartheid; but the advent of democracy means that plantation developers now have to negotiate with the owners of the land.

However, the fact that most of the rural land in South Africa is held under non-private forms of tenure means that individuals cannot sell the land as they wish (assuming they would want to do so). Thus the only way of accessing large blocks of land is through engaging the community and convincing them that opportunity costs for the communities themselves will be high if they do not agree to participate.
This was clearly evident in the case study. Although communities are already formally acknowledged as participants (some community representatives, that is) as part of the sectoral restructuring process, it is also clear that the acquisition of more land

from the local community remains a deep-seated priority for SFP.

For example, Scott told community members:

"We have a program to develop new forests for the communities and for this to happen we appeal to the communities to make land available for a joint venture between ourselves and you in this program…We need about 22,000 ha of new land planted to trees by the end of the year between Pennybrook's Neck right down to Umtata. We are looking for 4,000 ha in the Marhambeni area. Weza and Singisi are now amalgamating to form a new project in Kokstad. This new project will help keep the Singisi people employed, yet the other side is that for the operation to be cost effective, we would need to grow more trees….One of the ventures we want to go into is the development of the furniture industry. For this to happen we need that extra volume of timber…."

Demands on the municipality

Meetings with local government officials also revealed a deep-seated concern about the demands that the company places on local ratepayers and local government.

HMH is building a giant new US$176 million timber factory cluster at Kokstad, which will replace the older Singisi Mill (which has been a key source of employment for people in the communities surrounding it). The establishment of the larger mill is problematic, however, because it has implications for the municipality's ability to meet both the needs of the people and the company's service requirements.

Kokstad is a poor, rural municipality with a very low tax base. It also lacks basic infrastructure, making service delivery extremely difficult, both logistically and financially. Kokstad also has a poor water supply; and has already had to spend precious finances upgrading its electricity supply capacity to cater for the mill.
Local officials doubted whether the limited benefits of this planned expansion could possibly outweigh the costs, in terms of water and energy demand, that poor, local ratepayers would have to subsidize.
The newer mill may also mean fewer

Singisi Saw Mill. Photo: Wally Menne, Timberwatch Coalition.

jobs, as timber processing is becoming increasingly mechanized.

Community development: about land, not development

Principle 4 of the FSC states that *"Forest management operations shall maintain or enhance the long-term social and economic well being of forest workers and local communities."*

Yet this FSC-certified company's activities as a community development agency are suspect. There is animosity and a of lack of trust between the company and the community, and suspicion that HMH and SFP's 'Community Development Programmes' attempt to manage community relations, with a view to ensuring access to the communities' land and cheap labor.

There is a monthly community liaison committee meeting in which development items are dealt with, in the interest of developing good 'neighborship'. At one such meeting HMH's Community Development Manager, Charlie Scott, made it clear that in their community development approach certain projects are prioritized over others. According to him, his company prefers projects to do with forests, agriculture, poultry, clinics and roads.

Scott pointed out that 2006 was a good year and that US$164,000 had been paid into the Tribal Council account for projects to benefit the communities living around company plantations. However, there are many such communities and the money is likely to be spread extremely thinly. Other substantial funds, which replace rent, are paid directly to the Department of Water Affairs and Forestry, but are also supposed to be paid to communities once land claims have been resolved. However, no-one seems to know of any community projects that have been developed with these funds (see below).

The bottom line still seems to be accessing yet more community land - in this case 5 ha for a nursery and 4000 ha for a new plantation project.

Food sovereignty and water security

The push to plant more timber trees on communal land is a major threat to food sovereignty in the region. The poor soils and low levels of rainfall already pose problems. The extension of plantations of alien tree species into the communities' land means that more land is being diverted away from food production. These invasive tree species can also lead to reduced surface water, loss of biodiversity resources used in traditional medicine and an increased risk of fire.

Communities agreed, reporting stream flow reduction following the proliferation of tree plantations and woodlots. Oldman Mkwena arrived in the Singisi communities in the early 1950s. He reminisced how the area was when he arrived:

"This area settled by the Marhambeni community was known for a wide variety of game for hunting. Its main problem was the snakes in the hills, where it gets its name. There were also a lot of wild fruits and this was also the medicine chest for the area as it was rich in medicinal plants. All the dry streams you crossed coming this way were perennial streams that provided water even during winter, providing cattle with water and food when it became frosty in the mountains. Things started to change in the 1980s when timber-planting activities increased. First was the Singisi mill, which was placed in land that used to be community grazing land. People were promised jobs but very few were forth-coming."

Pushing over-crowded communities into increased dependence on non-farming activities for their livelihoods makes an already precarious situation even worse. The fact that most of the vegetables and food eaten in the area have to be brought in from large-scale farms in KwaZulu-Natal should be a wake up call for development officials to prioritize food production. Any meaningful community development intervention should be one that prioritizes the increased production of food and enhances food security at the household level.

Meetings with the Youth Forum and some community members also revealed their belief that non-timber community projects are not welcomed by the company. Similarly, one community activist and retrenched timber mill worker, Michael Hlangulela, started a co-operative to grow food crops and keep chickens. However, when he tried to access the funds, he found that they were only available if the 13 ha of land the co-operative had was developed into a woodlot. It seems that the so called community development funds may be nothing other than an additional route to land for growing timber.

Squeezing out small private operators

SPH's Charlie Scott promised that:

"We guarantee to buy all trees at market related value and we guarantee to pay lease money for land in the duration of the project. Some of the benefits include training to be given for back-up services to be available in the community. SFP will develop the land, and the people will be trained, employed and that there will be a constant flow of rent money for the timber thus reaping profits. For us, this means an expanded source for timber."
Whilst this sounds good in theory, it has not been borne out in practice, especially when it comes to employment and the welfare of other smaller outfits involved in the timber industry.

In particular, consolidation of plantations and timber processing under the control of one giant operator has impacted on many smallholder timber operations. Small, private mills are being suffocated by a shortage of logs due to SFP's monopoly of the timber production and supply process.

A number of small farmers and timber operators made this point in interviews with Timberwatch. For example, Paul Belbin of Aljo Timbers said,
"Small timber operators, which include timber product processors, millers and other timber-related business such as furniture and coffin making, are important employers in the area. Yet many are at the verge of closing shop because of supply related problems. SFP/HMH has made it clear that they would like to buy out most of these small players to get access to more logs. This presents a dangerous future in which the sector is monopolized in very few strong hands and operates in an environment where there is no competition. Local small operators say that in the course of bidding to buy the state plantation assets from DWAF, HMH promised not to use their monopoly position to disadvantage the small players."

"HMH now have monopoly of the sawmill business. The result is that many of us will be forced out of operation not because we are inefficient at what we do and out-competed, but simply because it is becoming expensive to source timber – our primary product."
"Thus a domino of business fall is experienced and towns such as Harding whose economy was dependent on the timber industry become ghost towns and the people in those places are reduced to migrant workers for bigger cities, some turn to crime and what you end up with is a social crisis."

Similarly, Mark Gallagher of P&S Treated Timber, and chair of Harding Farmers' Association, said:

"Relations between us and HMH as compatriots in the same industry are not rosy. We do not have a good relationship as they are isolationist – they do not help for fire and security problems. With SAFCOL we had a healthy relationship. When we have security problems, for instance when a farmer's wife was attacked on the farm a year ago – they did not come and help at all. Other farmers came to offer moral support but not HMH. In the case of fire, it is the same. Weza had a big fire in 1995 but HMH did not respond. They have a huge fire capacity but they did not find it necessary to show good community conduct by coming to our aid. Their approach to stray animals affects our relations with the local communities and they also discourage honey gathering which makes the industry seem as having no understanding of the people's livelihood needs."

Local employment

The case study revealed mixed views about the local benefits in terms of employment. Some thought the company's presence was important and necessary for the development of the area, whilst others thought it wasteful. There was a further group, however, who thought the industry needed to be reformed rather than removed. Their list of demands – as yet unmet, in spite of FSC certification - included better wages, protection against injury on the shop and plantation floor, a pension and health scheme, security of employment and other labor-related guarantees. The biggest problem for this sub-group was the fact that work was increasingly being sub-contracted and their labor becoming cheaper. They found themselves becoming poorer and poorer. This should not be happening in any FSC-certified forest or plantation.

Paul Belbin of Aljo Timbers pointed out that the employment benefits of the new super-mill in Kokstad are being overstated:

"They claim that the Kokstad mill will employ 500 people without recognizing that in Harding it has resulted in loss of employment for more than 500 people. For example Surejoy Industries, which opened shop in the early 1970s had an annual contract with SAFCOL for saw logs and has since ceased operations,

Burned pine trees. Photo: Wally Menne, Timberwatch Coalition.

in August 2006, when HMH cancelled the log contract. This resulted in the loss of 120 permanent jobs. Another example is Glenhive Sawmill, which had to scale down its staff complement from 110 down to 40, also due to the cancellation of log supplies to their sawmill following the transfer of SAFCOL plantations to HMH."

Fires in plantations

Increasingly frequent fires in the plantations also generate considerable tension between the company and local communities. SFP argues that the fire-fighting training it has funded is not yielding results; they urge the community to take responsibility for fire-fighting, on the basis that the community is also a business partner whose income will suffer as a result of the fires.

"Fighting plantation fires is very expensive and it affects community dividends. For every hour a helicopter is in the air fighting fires we pay not less than R6,000. In the 2006 operational year, R4 million went to fire fighting which means of your 10%, R400,000 was diverted to fire instead of community development projects. We are pleading with you on this score to help us reduce the incidents of fires. Do not just burn your pastures without consulting with us as we have the knowledge of times and days when fires are a high hazard. We also have the fire management skills and kits we can help the community with."

But sometimes the fires are connected with other community livelihood activities. For example, community members resent the fact that the company also frowns upon beekeeping, considering it a fire hazard:

"We have found out that the largest cause for fire outbreak is the increase in beehives and uncontrolled (honey) harvesting. We are prepared to buy a proper bee smoker and hire people to train and harvest the honey for you. The other alternative is to hunt out all beehives and take them out."

However, some fires also seem to be started by arson – as communities vent their anger when land previously available for grazing livestock is given over to plantations. Plantation fires also have a huge negative impact on smaller operators, who fear that bad relations between the larger company and the community will lead to fires that damage their own businesses and/or reputations.

And finally, whilst large timber companies can usually absorb the costs of fires and other large-scale damage to plantations, individuals planting on private farms or communal land, growing trees to sell to the timber companies, are unlikely to be able to do so especially as the cost of insurance is prohibitive.

Community economic empowerment - without opportunities

The highly politicized and publicized program to indigenize the economy, through the so-called Black Economic Empowerment (BEE) programs of the government, has not benefited communities and local people. What these programs have successfully done is allow government to reward and place allies and key political figures in business. In the Southern KwaZulu-Natal region and some areas of the former Eastern Cape, for example, timber giants such as HMH acquired BEE rating by incorporating a number of influential black persons. This helped the company access most of the former state-owned plantations.
HMH celebrates its BEE status. Some 35 per cent of its shares are now owned by BEE partners, including workers, a rural women's organization and the Eastern Cape Development Corporation. However, what is rather surprising about these celebrated deals

and partnerships is that the community knows nothing about the share-holding allegedly in their names.

Nor are they aware of any community projects financed with the community funds. The US$4-500,000 so far earmarked for community development is to be shared by all the communities in all areas where SFP does business. Based on a conservative estimate, there are 300 communities of Marhambeni's size, so this works out to something in the region of US$1,500 per community. Thus even if the money were to be well and fully spent, there is little likelihood that it would in any way compensate for the negative impacts on employment and economic and social well-being in the communities, or make up for the land they have lost use of. At the very least, there is a need to develop civil society and local capacity to negotiate relations between companies and communities.

The BEE program has provided companies with a new partnership spin. In a charged relationship, often marked by adversarial and sometimes violent backlashes, BEE motivates companies to insist that communities tone down their expressions of disaffection. SFP's Charlie Scott made this very apparent by suggesting to community members that, as partners in all the Singisi sawmills and plantations, their share of profits will grow as the company expands its operations. So, he argued, it is in their best interest to make land available to the company and help control fires:

"The sooner communities realize that our destinies are tied together, the sooner they could start reaping the benefits due to them."

Conclusions

What is clear from this case study is that even though they are FSC-certified, HMH and Singisi Forest Products are failing to make their activities socially sustainable. The formal involvement of communities does not seem to be stemming the tide of negative economic and social consequences being experienced by local people. Rather, their involvement and the constant hope of financial gain prevent them from speaking out about current woes.

Eucalyptus plantations - the green blanket of death. Photo Wally Menne, Timberwatch Coalition

HMH and SFP, far from taking a progressive approach, appear to be adhering to a model that disadvantages small players and leaves many people destitute. It is particularly evident that the land and water resources that presently belong to the Eastern Cape and southern KwaZulu-Natal rural communities are being targeted for the ongoing expansion of timber plantations and the establishment of industrial-scale agrofuel crops; that local small and medium timber-processing enterprises are being squeezed out of existence; and that communities are under increased pressure to support this development, even though these land uses are not appropriate for them and will almost certainly not be environmentally sustainable.

The FSC certification system, as practiced in South Africa, actually seems to be masking some of the many environmental, social and economic problems experienced by communities living alongside plantations. The

expansion and development of the sector to meet increased global demand for timber products has increased unemployment and functional

poverty in the area, and has led to encroachment into land and water resources required for food production and food security. There are other associated dangers including fire, water shortages and reduced access to the natural resources essential to a self-sufficient livelihood. Timber mills have led to de-skilling of workers, as they mainly do manual work. The rise of contract worker arrangements has also left many community members unemployed.

A more sustainable model should allow competing uses of land, promote land use activities that do not waste water and provide opportunities for employment creation. Community land should be used for those activities that allow higher food security and skills development.

Forest (plantation) certification and agrofuels

There is growing concern about the impacts that agrofuel crop production is likely to have, on communities, biodiversity and climate change. Whilst the energy industry and some governments are promoting the allocation of vast areas of land to grow agrofuel crops (including dedicated timber plantations), others are questioning whether local communities, including indigenous people, will benefit from agrofuels production at all.

There is little doubt that the main demand for agrofuels emanates from industrialized countries, where heavy dependency on increasingly expensive fossil-fuel resources has prompted the scramble to develop supplies of agrofuels. The governments and businesses concerned have touted agrofuels as being environmentally friendly, arguing that they have the potential to reduce carbon dioxide emissions; and that they will stimulate economic development. However there is a strong and growing body of opinion questioning the validity of these claims.

In an attempt to defuse growing opposition, consumer countries are proposing that 'sustainability criteria' and certification schemes be developed for agrofuels. They maintain that the certification of forest and tree plantation management has been a great success; and that communities can engage in and benefit from such schemes.

However, in reality the certification of both forests and plantations by organizations such as the FSC and the PEFC schemes are having a disastrous effect on forests' biodiversity, and on forest-dependent communities and Indigenous Peoples.

On its website, FSC states that its mission is *"to support environmentally appropriate, socially beneficial, and economically viable management of the world's forests."* Yet timber companies in South Africa have been able to manipulate the system to acquire high profile FSC-certification for vast plantations of water-guzzling alien tree species, which destroy local biodiversity and reduce the amount of land available for local food production. This report demonstrates that FSC certification, even in a company that has community members and employees as shareholders, can still be used to rubberstamp land-use activities that are inherently harmful, both socially and environmentally; and bring few if any benefits to local communities. It has also had the effect of driving many small yet vital timber processing companies out of business.

If a similar approach is used to certify agrofuel crops, the same shortcomings are likely to be evident on an even grander scale.

A new plantation certification policy is needed

In April 2006 an international group of NGOs, including Timberwatch, called on FSC to de-certify a number of controversial plantations globally, including all South African plantations.

Timberwatch would like to see FSC certificates for plantations withdrawn until there is a widely endorsed plantation-specific set of principles and criteria in place, against which plantations in South Africa can be meaningfully assessed. Such a standard would need to address the full range of issues that are presently recognized as being obstacles to achieving satisfactory levels of performance in terms of local social and economic benefits and sustained environmental health.

These issues would need to include the poor wages and working conditions of plantation workers; the possible use of child labor in community out-grower schemes; the negative effects of plantations on water supplies for downstream and adjacent communities; the wholesale destruction of biodiversity; and the chemical pollution and greenhouse gas emissions generated during the full timber production and processing cycle. It would also need to look at how tree plantations contribute to the deterioration of public roads used for transporting timber, as well as the road-accidents caused by timber trucks.

Timberwatch believes that most South African timber plantations have not been established appropriately, are poorly managed, and do not deserve to be certified, either under the present 'forest certification' standard let alone under a 'plantation' specific standard based on realistic principles and criteria that can be applied to timber or other plantations.

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Photo cover: *The new HMH plywood mill at Kokstad is the first of 5 timber-processing projects*

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LIFE AS COMMERCE:
Certification in South Africa

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Village life in South Africa. Photo: Wally Menne, the Timberwatch Coalition

Formed in 1995 and officially launched in April 1997, the Timberwatch Coalition is a voluntary alliance of South African non-governmental organizations and individuals that are concerned about the negative impacts of industrial timber plantations on people and the environment. The highly destructive monoculture timber plantation model has been deliberately misrepresented as having the socio-economic and environmental benefits of natural forests. Timberwatch lobbies government and industry, as well as the Forest Stewardship Council (FSC) to transform timber plantation policy, governance and practice.

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LIFE AS COMMERCE:
Ecotourism in India

Equations

The full case study can be found at:
www.globalforestcoalition.org

Summary

The term ‘ecotourism’ was coined by a marketing agency promoting Costa Rica as a holiday destination; since then ecotourism has been seen as a niche market by the tourist industry and its backers.

The World Conservation Union (IUCN) defines ecotourism as *“environmentally responsible travel and visitation to relatively undisturbed natural areas, in order to enjoy and appreciate nature (and any accompanying cultural features - both past and present) that promotes conservation, has low negative visitor impact, and provides for beneficially active socio-economic involvement of local populations.”*

Ecotourism is undoubtedly big business across the world. When the United Nations Environment Programme designated 2002 as the International Year of Ecotourism, it received vociferous support and sponsorship from the tourism industry and travel associations.

The reason was simple. ‘Ecotourism’ was the magic mantra that enabled the tourism industry to pacify critics by using the language of conservation - under the guise of managing tourism’s adverse environmental impacts - without compromising on profits. But the resulting ‘greenwash’ has been starkly evident to many communities and groups in developing countries who have been on the receiving end of ecotourism. Many have registered their protests and concerns with UNEP and the organizers of the International Year of Ecotourism. However, despite these efforts ecotourism continues to be a popular concept amongst governments and industry.

Estimates place the value of the ecotourism market in developing countries close to US$ 400 billion annually. India has a substantial share of this market, thanks to its rich biological and cultural diversity and heritage, together with entrepreneurship skills in the tourism industry. The main drivers of the development of ecotourism in India have been private capital, UN agencies and more recently, international financial institutions such as the World Bank and the Asian Development Bank.

Tourism as a conservation mechanism

In many countries, including India, ecotourism continues to attract government support and industry investment because of its claim to support conservation goals through the market. Parties to the Convention on Biodiversity (CBD), for example, have embraced market-based approaches to biodiversity conservation. The fifth Conference of the Parties (COP-5) to the CBD, in 2000, for example, saw extensive discussion about the negative and positive impacts of tourism on biodiversity.

However, despite a number of cautionary statements about the many things that can go wrong when tourism is promoted in biodiversity-rich areas, COP-5’s Decision V/25 stated that *"tourism does present a significant potential for realizing benefits in terms of the conservation of biological diversity and the sustainable use of its components."*

Nevertheless, the same decision also notes that *"Historical observation indicates that self-regulation of the tourism industry for sustainable use of biological resources has only rarely been successful."* Nevertheless, despite this acknowledgement of the inherent limitations of voluntary approaches, the Parties to the CBD subsequently embarked on a process to elaborate voluntary guidelines for Biodiversity and Tourism Development, which were adopted by the 7th Conference of the Parties (COP-7), in 2004. The need to involve Indigenous Peoples and local

communities in tourism development is mentioned in these guidelines, but only as a voluntary measure.

As also recognized by the CBD, it is extremely hard for communities to compete in a market that is *"fiercely competitive"* and *"controlled by financial interests located away from tourist destinations"* (COP-5, Decision V/25). Also, negative impacts on local communities can be significant as *"operators are very likely to 'export' their adverse environmental impacts, such as refuse, waste water and sewage, to parts of the surrounding area unlikely to be visited by tourists"* (COP-5, Decision V/25).

Ecotourism in India

India's tourism industry sees ecotourism as its unique selling point, and promotes it as an antidote to the development problems of hitherto 'untouched' areas.

Despite the lack of consensus between the industry, indigenous and local communities, and government and non-governmental organizations, tourist operators are bringing more and more tourists to fragile regions such as forests and coasts, and opening up new biodiversity-rich areas to tourism, regardless of their Protected Area status.

NGO EQUATIONS conducted a case study to test their hypothesis that *"In the absence of coherent policy, regulation and guidelines, ecotourism has impacted biodiversity; lives and governance systems of communities. This has resulted in the loss of rights and benefits arising from use of biological resources to communities. Women are particularly affected as they confront increasing problems of social evils, and have a reduced say in matters that affect them."*

EQUATIONS conducted their case study through interviews, focus group discussions, field observation and travelling as tourists to get first-hand experience of how local community members interact with tourists. Their findings were compared with the official view, through a study of official websites and promotional materials.

The case study looked at four States, all of which have diverse ecosystems and populations which are predominantly composed of indigenous groups.

The four States are:

- Andaman & Nicobar Islands
- Chhattisgarh
- Madhya Pradesh
- Uttarakhand
  (formerly Uttaranchal)

The Andaman Islands are an archipelago situated in the Bay of Bengal, the home for four primitive tribes that are almost on the verge of extinction. Yet the Islands Administration's Department of Environment & Forests has proposed the opening up of 23 areas for ecotourism, and in 2004 the national Ministry of Tourism announced an enhancement of private investment, from just over US$1 million to more than US$22 million, to build super resorts and luxurious hotels in the Islands. The Islands' Directorate of Information, Publicity and Tourism also proposed a new ecotourism circuit, at Baratang, in November 2004.

Chhattisgarh and Madhya Pradesh are located in Central India and contain forest ecosystems that contribute significantly to India's forest cover and biological diversity. Chhattisgarh is a tribal state, carved out of Madhya Pradesh in 2001. It has several 'virgin attractions' in protected areas, which *"are all exhilarating destinations being promoted for nature and wildlife tourism. Wildlife areas, camping grounds and trekking facilities would be*

Community enterprise, Andamans

a few of the prime attractions." Policy further states that the endangered Wild Buffalo (*Bubalis bubalis*) and Hill Myna (*Graculis religiosa peninsularis*), the state animal and state bird respectively, will be protected by ecotourism.

Madhya Pradesh already has six ecotourism sites, including National Parks and a Tiger Reserve, and eight new sites are proposed.

Uttarakhand spans the Himalayas, the trans-Himalayan hill ranges of the Shivaliks and forest ecosystems. Uttarakhand is also a tribal state, created from Uttar Pradesh in 2001. Its Tourism Policy states that *"Uttarakhand has a rare diversity of flora and fauna. This makes it an ideal area for developing eco-tourism projects and activities like jungle safaris, trekking on mountain and forest trails, nature walks, catch and release angling for mahaseer and other fish species. All these activities have to be conducted in a manner that promotes awareness of environment and helps maintain the fragile ecological balance."*The policy also plans to develop Integrated Eco-Tourism projects; and to take steps to promote eco-friendly tourism activities like jungle safaris, nature walks, mountain treks and camping, in a manner that also promotes awareness and sensitivity towards environmental conservation.

Legal and policy framework

India has no laws on tourism per se, at either the national or State level. Yet it does have legal and policy frameworks that have the potential to regulate ecotourism. However, there are serious concerns about how these are implemented.

National laws

Wild Life (Protection) Act, 1972

This Act permits tourism in protected areas, along with scientific research and wildlife photography. However, the character and volume of tourism in protected areas has changed

considerably since the law was framed. There is thus an urgent need to amend the Act or at least to introduce guidelines that regulate tourism and tourist activity in and around protected areas.

Forest (Conservation) Act, 1980
This Act prohibits conversion of forest land for 'non-forest' activities (any activity that does not support the protection and conservation of forests). However, the idea that ecotourism supports conservation means that it is allowed in forest areas. Although this Act has the potential to regulate ecotourism, there is an urgent need to verify the underlying claim that ecotourism supports conservation.

Environment (Protection) Act, 1986 Under this Act, there are two very important Notifications that are closely linked to the development of ecotourism:

a. Coastal Regulation Zone Notification, 1991: This is an important law governing activities along the coast. However, twenty amendments to the Notification have diluted it and rendered many of the protective clauses meaningless.
b. Environmental Impact Assessment Notification, 2006: The Notification omits Environmental Impact Assessments for tourism projects, unlike its predecessor, the Notification of 1991, which required them.

National Policy Framework

National Biodiversity Strategy and Action Plan (NBSAP)
The plan deals with gross impacts of tourism activities in major ecosystems. It also focuses on principles in relation to tourism, which need to be adopted for the sake of conserving biodiversity. However, India's Ministry of Environment and Forests has rejected the NBSAP on the grounds that it was 'unscientific', in spite of the fact that the preparation of the NBSAP was one the most participatory processes in Indian history.

National Environment Policy 2006
This policy promotes ecotourism in many fragile ecosystems and overlooks tourism's negative impacts.

Ecotourism Policy & Guidelines 1998
Drawing from international guidelines prepared by tourism industry associations and organizations, the Ecotourism Policy & Guidelines 1998 issued by the Ministry of Tourism represents the interests of global industry players. The policy considers all India's ecosystems as ecotourism resources and states that have been well protected and preserved. The role of communities is limited to protecting environmental resources and providing services to tourism in the role of 'hosts'.

State Policy Framework

Andaman and Nicobar Islands Tourism Policy
This is a rather simplistic document serving very little of its intended purpose, which is providing guidelines and principles for implementation.

Chhattisgarh does not have a separate Ecotourism Policy but development of ecotourism is included in the state's Tourism Policy of 2006. The Policy states that specific areas of natural attraction, including wildlife areas will be developed for ecotourism activities like camping and trekking. This will be done through participation of local communities. The state's rich biodiversity will be promoted by setting up gardens of herbal medicines and promoting ayurveda resorts. While, the State's official website enlists its three national parks and eleven wildlife sanctuaries as ecotourism attractions, the Tourism Policy 2006 has identified protected areas such as Kanger Valley National Park, Barnawapara, Sitanadi,

Chitrakot falls, Chhattisgarh

Udanti and Achanakmar Wildlife Sanctuaries for the development of ecotourism.

Madhya Pradesh's Ecotourism Policy 2007's salient features include development of infrastructure, promotion of lesser known areas, diversification of tourism activities, building awareness and securing local community and private sector participation. Ecotourism activities will include nature camps, eco-friendly accommodation, trekking and nature walks, wildlife viewing and river cruises, adventure sports, angling, herbal ecotourism, urban ecotourism through eco-parks, visitor interpretation centers, and conservation education. This is nothing but mass tourism with a greenwash.

Uttarakhand does not have a separate Ecotourism Policy but the development of ecotourism has been included in its general Tourism Policy, formulated in April 2001. The vision is to elevate Uttarakhand into a major tourist destination both nationally and internationally and make the state *"synonymous with tourism"*. It wishes to develop this sector in an *"eco-friendly manner, with the active participation of the private sector and the local host communities."* And finally, it wishes to develop tourism as a major income earner for the state and as a source of employment, to the extent of being *"a pivot of the economic and social development in the State."*

Local Self Government of Indigenous and Local Communities - Constitutional status and Scheduled Areas

Article 244 (Administration of Scheduled Areas and Tribal Areas) of the Indian Constitution contains provisions for notifying certain indigenous peoples as 'Scheduled Tribes' and the areas that are occupied by indigenous peoples as 'Scheduled Areas'. The Fifth Schedule of the Indian Constitution provides protection to the indigenous people living in these Areas and gives them the right to self rule. It also reinforces the rights of the indigenous peoples to territorial integrity and the right to decide on their own path of development. It disallows the transfer of tribal lands to non-tribals and corporate entities.

The Constitution of India, through its 73rd Amendment, paved the way for a separate and progressive legal and administrative regime for tribal areas for a genuine tribal self-rule. This was done by enactment of the *Panchayat* (Extension to Scheduled Areas) Act 1996 (PESA).

Under the section 'Empowerment of Institutions of Local Government', Article 243-G of the Indian Constitution *"directs the Central and State government machinery to endow panchayats (village assemblies) and municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government with respect to:*

- *The preparation of plans for economic development and social justice*
- *The implementation of schemes for economic development and social justice."*

With respect to tourism alone, there are 29 subjects that fall within the *panchayats'* remit, including:

- Acquisition of land for development projects; rehabilitation and resettlement of persons affected by any projects undertaken in Scheduled Areas.
- Regulation of land use and construction of buildings.
- Regulation of use of minor forests produce.
- Sourcing water for domestic, industrial and commercial purposes.
- Construction of roads, culverts, bridges, ferries, waterways and other means of transport and communication built in the region.
- Electrification.

The rights of local self government institutions in relation to ecotourism development are, *inter alia*:

- Licensing of tourism projects, buildings and activity areas including the right to reject a license to the tourism industry if it refuses to cooperate.
- Levy, collect and appropriate taxes, duties, tolls and fees.
- Participate in the preparation of plans for economic development and social justice.
- Monitor tourism businesses in relation to the exploitation of labor and natural resources and initiate criminal procedures regarding the exploitation of women and children, including child labor, by the tourism industry.

However, various factors have constrained *panchayats'* ability to function effectively as institutions of local self-government. These include the lack of adequate transfer of powers and resources to local government bodies, their inability to generate sufficient resources, and the non-representation of women and weaker sections of the community in elected bodies.

Findings

Undermining community governance

There are several instances across India where ecotourism ventures and activities have been carried out without the consent of local self government institutions. The tourism industry and higher authorities such as Tourism and Forest Departments have usurped their functions, bypassed due processes and overruled decisions of local self government institutions.

Democratic deficit in decision making

Whilst powers have been devolved to the *panchayats*, this has not been implemented in letter and spirit.

Tourism is a complex cross-cutting issue that touches upon the social, economic, environmental, cultural and institutional aspects, and hence sharing of information dialogue between *panchayats* and the Tourism and Forest

Departments is essential. Yet there appears to be no space in the present governance structure for discussion between the *panchayats* and bureaucracy; there have been no attempts made so far to create such a space.
There is an absolute deficit concerning the information and consultation that should be part of democratic decision-making on ecotourism development. The *panchayats* are not consulted when tourism projects or plans are prepared by the governments or by any other party. Often they only become aware of plans at the implementation stage, when developers seek a token 'No Objection Certificate' from the *panchayat* to go ahead with construction. At this stage, the *panchayats* feel they cannot refuse because clearances have already been given by other departments.

A good example of unilateral decision making by state governments is in the matter of allocating land for ecotourism purposes. Whilst diversion of forest land for ecotourism purposes is done only by the Forest Departments, when they themselves undertake ecotourism development activities, non-forest land such as farm or grazing land is leased out to private developers by the governments either by acquiring it from local authorities or by simply leasing it in their name. This even happens in Scheduled Areas, where such acquirement and transfer of land is constitutionally not permissible.

Pressure on local self government institutions without commensurate gains

The local self government institutions are also pressurized by ecotourism development to go beyond their mandate of providing essential public services to local people, and catering to the needs of tourists. For example:

- *Wastes, especially solid wastes* – the *panchayats* are forced to clean up the mess left by tourists. In some cases, state departments have failed to respond to repeated requests to either collect and dispose of waste or provide additional funds to the *panchayats* to do so.
- *Amenities* – the *panchayats* are responsible for providing basic amenities for local people. While there is no separate budgetary provision for tourism, these facilities are also used by tourists. Sometimes the *panchayats* are also pressurized into providing amenities such as public toilets to cater to the demands of increasing numbers of tourists.

Loss of benefits arising from use of biodiversity

When the Ministry of Environment and Forests set up Protected Areas, large populations of indigenous and local communities were displaced to create national parks and wildlife sanctuaries. Now the Forest Departments of many Indian states, including those selected for this case study, are planning to develop ecotourism in many of these Protected Areas. In many cases, the operations involve the services of indigenous and local communities in the form of guides and workers in lodges, etc.

Secondly, resorts, lodges and hotels have grown up on the peripheries of Protected Areas. This has led to the privatization of common property resources through the process of acquisition by governments and leasing to private corporations and entrepreneurs. This has led to communities losing the benefits of forest produce and, in some cases, losing pastureland.

Furthermore, community-owned ecotourism initiatives are still playing a marginal role compared to schemes developed by large, often global, tour operators. The communities view

Chhattisgarh ecotourism

ecotourism as a way of supplementing their livelihoods rather than competing for markets. Yet it is extremely hard for communities to hold their own in a fiercely competitive market. Most often, governments have extended little support to community-owned initiatives. On they other hand, they have promoted different versions of tourism as ecotourism even if they have no semblance of conservation.

The World Bank-supported Joint Forest Managements and India Eco Development Projects have not contributed much to this impasse either, since they did not address the core issues of community control and access to natural resources. The fundamental issue of community rights remains unresolved and stewardship is shifted from the community to the ecotourism industry and its players.

Conclusions

There are inherent problems in the manner in which ecotourism is being developed in India. It is largely driven by Forest Departments and corporations, with communities having little participation in decision-making. As a result, the benefits largely go to state exchequers and private entrepreneurs.

Both central and state policies and plans propagate ecotourism without taking account of existing laws and other policies. As set out earlier, there is an urgent need to amend legislation to take account of the scale and impacts of ecotourism and the potential for further development.

The 73rd and 74th Amendments to India's Constitution accords rights to local self-government institutions, bringing into their jurisdiction matters related to land, water, socio-economic development, infrastructure development, social welfare, social and urban forestry, waste management and maintenance of community assets. Ecotourism development falls under the purview of these subjects and therefore, decision-making from the local self government institutions is important. The local self government institutions need to be involved in all

levels of ecotourism development, from approval of the project, to planning, implementing, development, marketing, evaluating, monitoring and research. The local self government institutions have the right to formulate regulatory frameworks; and the onus of ensuring compliance from the tourism industry would rest on the state governments, and needs to be drawn from relevant multilateral environmental agreements.

The Amendments have also strengthened women's participation in decision-making through reservation in all levels of the three-tier governance system. Their role in charting the course of tourism development in accordance with community aspirations must be reinforced.

In addition to this, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, passed in 2006, grants legal recognition to the rights of traditional forest dwelling communities, partially correcting the injustice caused by the forest laws mentioned above, and takes a first step towards giving communities and the public a voice in forest and wildlife conservation. The implementation of this Act may help in reiterating the role of communities in protecting and managing forests, and to ensuring the benefits arising from the use of biodiversity.

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Lata village, Uttarakhand

EQUATIONS is a non-governmental organization involved in campaigning and advocacy on tourism and development issues in India since 1985. Our work has focused on tourism and its impacts on women, children, ecosystems, indigenous people and communities dependent on natural resources. Over the years, our work has focused on issues surrounding the role of *panchayat*s and other institutions of local self governance in the context of influencing tourism policy and implementation, community participation in decision-making and community benefits and the struggle for sustainable, equitable and people-centered tourism development in the shadow of trade liberalization and corporate globalization.

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LIFE AS COMMERCE:
Bioprospecting in Costa Rica

The full case study can be found at:
www.globalforestcoalition.org

Summary

Bioprospecting is a form of commodification of natural resources which is intended to create economic benefits while at the same time assisting the conservation of resources. The concept was developed in the 1980s, notably by US Professors Eisner and Janzen, who proposed a system through which countries that were genetically rich but economically under-developed could capitalise on their natural wealth by offering companies from rich countries access to their genetic resources. These companies would then use their technology to develop marketable products, and secure intellectual property rights to their 'inventions' through the use of patents.

Costa Rica is a world leader in bioprospecting, and widely seen as a country dedicated to conservation. Yet a coalition of Costa Rican environmental organizations, academics, indigenous peoples and peasants, members of the Network for Coordination on Biodiversity, question whether bioprospecting has in fact brought the country the benefits that were promised. They are concerned that it assists the appropriation of genetic assets as well as local, traditional knowledge.

Furthermore, bioprospecting is having a negative impact on community governance in Costa Rica. As the case study finds, the private appropriation of traditional knowledge or plants via intellectual property mechanisms is extremely complex, making any sort of informed community engagement and decision-making very difficult, especially for women, who often have less access to education and lower levels of literacy.

In addition, the fact that resource 'ownership' is a concept alien to Indigenous cultures has also created great confusion: how can - and indeed why should - something that has been part of a People's culture, which they have always shared amongst themselves and with others, be appropriated by outsiders? For the Ngobe Bugle people, biodiversity is an essential element in everyday life. From it, villagers get medicines, food, materials to develop their crafts, their legends and much of their history. Their traditional knowledge has been shared with everyone in the community and with some outside of it. Today, however, because of the threat that their knowledge is being appropriated by others outside their village, the very act of sharing within the community and externally is being eroded.

Conflicts have also flared up in some Indigenous villages because some people within the community have chosen to sell medicinal plants or share their knowledge in exchange for financial gain, when this is frowned upon by the rest of the community. It is important to bear in mind that these conflicts are driven by people's need to

Traditional handcrafts made of plants from the forest. Photo: Marco Chia.

generate income – and that there are non-indigenous people who are aware of and ready to exploit this situation to acquire the knowledge they seek.

Much traditional knowledge is shared by various Indigenous Peoples and anyone who carries out a transaction with group can instigate a conflict with the other Indigenous Peoples. These internal decision-making difficulties can be even more pronounced amongst Costa Rican peasants and fishing communities who while not indigenous, share many of the values of the Indigenous People. Bioprospecting can also have a particularly negative impact on women, who are closely engaged in using and maintaining and exchanging knowledge about biodiversity as it relates to food.

The National Institute for Biodiversity (INBio)

Costa Rica's National Institute for Biodiversity (INBio), has become a model in the field of 'biodiversity management'.

Whilst the name suggests that INBio is a public institution, it is in fact a private entity, although it has very close links to government. Initially created in 1989 to oversee the creation of an inventory of biodiversity, INBio grew in importance by taking over the databases of the National Museum and other important institutions. It obtained further funds and in-kind support via 'debt for nature' deals, tax exemptions and donated vehicles; and won international awards, which greatly enhanced its reputation. In 1991 it signed a contract with the pharmaceutical company Merck, the first of a number of deals with private companies worldwide

Now INBio runs projects with companies, universities and even governments, nationally and internationally, and receives funding from the Inter-American Development Bank, a variety of private foundations, international environmental NGOs and bilateral assistance agencies. It describes its activities as: *"A programme of bioprospecting that uses modern scientific and technological approaches to search for new products derived from wild Costa Rican organisms that are of interest to chemical, pharmaceutical, agricultural and biotechnology industries."*
INBio has good connections with government ministers, legislators, university authorities and various other high-ranking officials in the ruling class. Present at its General Assembly are former government ministers, influential lawyers and bankers, and key figures such as Pedro Leon, director of the government's 'Peace with Nature' plan. The close relationship with successive governments has benefited both INBio and the Government, and done much to enhance Costa Rica's reputation as a world leader in conservation.

Expropriating Costa Rica's resources

However, INBio's activities do have both social and environmental consequences, whether or not they are intended.

To date, INBio has signed nearly thirty commercial agreements, but these effectively hand Costa Rica's genetic resources to private companies, with little by way of return. A communiqué emanating from the Convention on Biological Diversity (CBD) in 2002, for example, cited the relationship between INBio and Diversa, then a US-based industrial biotechnology company (now merged and focusing on biofuels), as an example of access and benefit sharing, saying:
"Under the terms of the agreement, Inbio collects specimens using their own techniques and ones provided by Diversa as well. InBio guarantees that this technology will not be used to collect and process specimens for other companies. The entire DNA sequence

Women of the Ngobe Bugle Indigenous People. Photo: Marco Chia.

that InBio isolates for Diversa will become the property of Diversa. All material isolated from these sites remain under the ownership of Costa Rica. Diversa pay the wages and other extras of at least one InBio staff member. It also pays profits to Inbio in the event that Diversa license a product to a customer from samples obtained from InBio. InBio receives access to technology, equipment and the creation of capacity ..."

The benefits to Diversa are clear. But the benefits accruing to INBio are uncertain, especially in relation to benefits that might or might not be generated if products are developed in the future. There is no mention, for example, of any related control mechanisms.

Unfortunately, no other public information is available. Before the communiqué was issued, COECOCeiba had requested information about ongoing negotiations between INBio and Diversa and a copy of the contract from the then minister of Environment and Energy, Mr Carlos Manuel Rodriguez. In response, Mr Rodriguez revealed that Diversa had patented methods or applications related to two gene sequences: Cottonase (an enzyme used in the industrial manufacture of cotton) and Green F-P (a fluorescent protein to be used in medical research). He stated that *"the contract signed between Diversa and INBio is considered confidential information and must therefore be protected."*

The route from Costa Rican natural resource to patented commercial product was also clearly illustrated, in March 2008, in an article in *La Nacion*, which said: *" the National Institute for Biodiversity, [specialists] are working on the search for new antibiotics. This group is responsible for testing about 2,000 fungi and bacteria from the INBio*

collection…. [Promising strains] will be forwarded to the National Centre for Biotechnology in Spain, where more tests will be conducted using bacteria that require laboratories having a greater level of security. There, more complex information will be obtained and subsequently a new antibiotic could be patented through the study of biodiversity obtained in Costa Rica."

Secretive deals

A contract with Merck signed in 1991 first thrust INBio into the role of doing business in biodiversity at an international level. Yet even though it concerned national assets, details of the contract were not made public: both the substance of the contract and the nature of negotiations were kept secret. It is known, however, that the Minister for the Environment was never present at these negotiations, despite his responsibility to ensure protection of Costa Rica's natural resources.

A researcher managed to unearth details, however, and in a 2002 article revealed that Merck had paid an advance of one million dollars to INBio after signing the contract, followed by a payment of US$100,000 to the Ministry of Environment and Energy for the protected area system. Merck also paid US$135,000 for scientific equipment, payment for chemical extracts of insects, plants and micro-organisms. INBio would receive royalties if the extracts gathered were used in commercial products. A second two-year contract, with similar terms, was signed in 1994 and a third in 1997. However, in 1999, Merck ended its contract with INBio to focus on the analysis of samples.

For Merck, the contract offered huge benefits: exclusive access to the samples collected; low labour costs (the parataxonomists – locally recruited field researchers – were paid for by Costa Rica); and incalculable reputational benefits. The one million US dollars Merck paid to Costa Rica was a small sum for a company with annual profits exceeding $8 billion. Even if no sample were ever brought to market, the PR benefits that Merck gained from the deal are still priceless.

For Costa Rica, the economic benefits were few, and royalties were not guaranteed. INBio itself benefitted from some technology transfer; but the size of the royalties it would receive if Merck develops a commercial product are uncertain: they are likely to be less than 5 per cent however. Given the limited number of samples that lead to a marketable product, up-front payments have been identified as being the most important benefit from Costa Rica's point of view.

Whilst the Merck contract has received the most attention, INBio has signed similar deals with institutions such as the British Technology Group and Kew Gardens, Bristol Myers Squibb and Cornell University.

This year, *Diario Extra* reported that Costa Rica would also extend environmental cooperation to China. *"…In Beijing, the minister of Foreign Trade, Marco Vinicio Ruiz… noted that the Institute for National Biodiversity of Costa Rica discussed the possibility of cooperating with China on environmental protection and biopharmacy. 25% of the world's biodiversity research is done in Costa Rica, and there is a possibility of using such research for Chinese pharmaceutical firms specializing in natural products, stressed the Minister, who was on an official visit to China to strengthen bilateral economic relations."* COECOCeiba is still waiting for clarification about this issue.

Whilst the details of these deals have also been kept secret, there are some common features. In particular, partners generally seem to be required to commit to cover costs of research in the country, to make a contribution equivalent to 10 per cent of their budget

to protected wildlife areas of the state, to make monetary compensation in the form of royalties on products that come to be marketed and also to help in technology transfers, the training of Costa Rican scientists and, in many cases, donating the equipment and infrastructure necessary for the development of research.

Lack of promised benefits for Costa Rica

COECOCeiba's literature review found that few of the promised benefits for the country have materialised. Funding for the national system of conservation areas is important; but a study undertaken up until 2000 by Nagoda and Tverteraas found that cash contributions towards the conservation areas system have decreased every year.

Despite its success and global reputation, INBio itself lacks the resources of the companies it deals with. Its annual operating budget is around US$6 million. Diversa pays under US$6,000 a year for the two products developed from the country's resources.

Women dresses. Photo: Marco Chia.

The country does in fact stand to lose a great deal because it has signed away potential patents and other intellectual property mechanisms on genetic assets and traditional knowledge originating in Costa Rica. The lack of transfer of technology to the country also undermines Costa Rica's potential for making commercial use of its own biodiversity in the future, should it choose to do so.

Selling traditional knowledge

One of the most notable and worrying features of bioprospecting in general is that the traditional knowledge of Indigenous People and local communities, who have conserved and improved native wildlife species (and made their commercial development possible) goes unrecognized, save for the salaries paid to local parataxonomists.

Bioprospecting treats human knowledge as free. Intellectual property rights are licensed to the companies who develop genetic resources into commercial products, implying that research and development activities are more important than the traditional knowledge used to identify potentially useful material.

Damaging communities

Bioprospecting has also proved damaging to Costa Rica's Indigenous people and other local communities. COECOCeiba has documented impacts over the past three years from discussions with Indigenous Peoples from territories of the Ngobe Bugle peoples AND OTHER LOCAL ORGANIZATIONS.

Indigenous peoples' rights over their biodiversity have not been respected.

According to the executive director of the National Commission for the Management of Biodiversity (CONAGEBIO, a public body responsible for access requests), no authorization has ever has been granted to INBio or any other institution or person to operate in Indigenous territories. Yet Indigenous people participating in COECOCeiba's research have said that, at times, unidentified people have wandered into their communities in search of plants or asking them about traditional medicines.

Biodiversity is an essential element in the Ngobe Bugle peoples' everyday life. Villagers use the native plants and animals for medicines, food, and to develop their crafts. Their history and culture are closely bound to the wildlife around them.
Sharing, too, is fundamental to their way of life. Traditional knowledge has always been shared amongst everyone in the community and some outside of it. Today, however, because of the threat that their knowledge is being appropriated, this culture of sharing is being eroded, causing confusion and conflict, and undermining the way of life that has preserved and improved biodiversity over the centuries.

Conflicts have also flared up in some Indigenous villages because some people within the community have chosen to sell medicinal plants or share their knowledge in exchange for financial gain, when this is frowned upon by the rest of the community. It is important to bear in mind that these conflicts are driven by people's need to generate income – and that there are non-indigenous people who are aware of and ready to exploit this situation to acquire the knowledge they seek.

Much traditional knowledge is shared by various Indigenous Peoples and anyone who carries out a transaction with group can instigate a conflict with the other Indigenous Peoples. These internal decision-making difficulties can be even more pronounced amongst Costa Rican peasants and fishing communities who while not indigenous, share many of the values of the Indigenous People.

COECOCeiba's literature review has not found any documents that stated any benefits to local communities, traditional fishing villages or indigenous peoples; and no community has taken part in any negotiation that could be seen as beneficial for their cultural identity and way of life. It seems that no community has benefited from this new and contrary worldview which values biodiversity only in economic terms.

Environmental damage

Proponents of bioprospecting initially argued that bioprospecting has a very low environmental impact. However ecosystems have been destroyed through this activity and monocultures of certain species have been planted in order to further the bioprospecting process.

Local employment

Proponents of INBio argued that local people would benefit through employment – as INBio hires local people to work as parataxonomists – and describes its workforce as 'a small army'. Yet researcher Lisa Campbell argues that, *"A lot of language concerning parataxonomists is paternalistic and condescending and, with only thirty parataxonomists employed at the beginning of the nineties, the employment created is fairly minimal."* This concern is still valid today, although there may be even fewer people employed as bioprospecting with parataxonomists is not so extensive now. However, the case study found no other studies

concerning bioprospecting and employment.

A way forward

In Costa Rica, all indigenous people have undertaken a process to define their community rights regarding traditional knowledge, to prevent its appropriation by non-indigenous people. Mechanisms have been established for decision-making in each territory, which follow traditional ways, and communities know that they have a right to say 'no'. Mechanisms have also been established to strengthen the coordination among various peoples about other issues which will be reviewed in consultation with all the Indigenous Peoples of each of the existing twenty-four Indigenous territories.

For communities made up of traditional peasants and fishermen, defining their rights is a little more complex. Parties wishing to engage in bioprospecting must negotiate individually with each landowner, rather than collectively. Nevertheless, there is a process underway among peasant communities relative to the theme of biodiversity and strengthening their identity, in order to define their collective rights.

Conclusions

Bioprospecting is a response to a world vision that is currently in vogue: we can only conserve and care for what is understood and has a value, and in order to understand we have created bioprospecting. Only then can we value it.

This approach is promoting a business that creates millions of dollars for a handful of companies, who take advantage of the cultural knowledge of Indigenous and local communities that have carried out the conservation, use and improvement of biodiversity, based on collective practices that must be shared so they can survive. For these people there are no benefits. Instead, the process is having a negative impact on Indigenous Peoples, creating conflict within and between communities and eroding their culture of sharing.

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Photo cover: *cacao seed, a very important crop for the Ngobe Bugle People, by Marco Chia*

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Don Chico: a traditional healer, Ngobe Bugle Indigenous People. Photo: Marco Chia

COECOCEIBA-AT is a non-profit making non-governmental organization established in April 1999. It includes members from diverse social sectors (academic, professional, environmental and peasant groups) and its staff has more than fifteen years experience in environmental campaigning, including from the political and legal perspective.

COECOCEIBA-AT is a member of various national, regional and international networks and campaigns; and participates in the Costa Rican popular movement, as well as in the main environmental campaigns to protect forests and biodiversity.

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LIFE AS COMMERCE: Biodiversity offsets in Paraguay

ALTER VIDA
CENTRO DE ESTUDIOS Y FORMACIÓN PARA EL ECODESARROLLO

The full case study can be found at:
www.globalforestcoalition.org

Summary

In Paraguay, national and international private conservation entities have been increasingly active during the democratic period, which started with the fall of the dictatorship of Stroessner in February 1989.

However, the subsequent democratic regime (insofar as political rights and civic liberties go), which was lead by Stroessner's party, has ignored the land tenure debacle caused by the dictatorship; it has neither addressed nor solved the many cases in which Indigenous and small farmers' lands were usurped by the dictator to hand out to his cronies.

Quite the opposite, in fact. The regime that ruled from 1989 until 15 August 2008 has been supporting the very landowners who benefited from this illegal wheeling and dealing and who are now seeking to reassert their ownership over these lands. Lawsuits being brought by Indigenous communities and small farmers, for example, are rarely settled in favor of the original inhabitants, even though the National Constitution formally recognizes the right of Indigenous Peoples to their ancestral territories.

The 1990s saw the emergence of conservation institutions as a new player in the land privatization process in Paraguay. These organizations have been involved, for example, in the appropriation of the last vestiges of the Mbaracayú forest, part of the ancestral territory of the Ache Guayakí and Ava Guaraní peoples. In the last ten years, these institutions have consolidated their land holdings and there is now a proliferation of conservation organizations active in the country. This has, in turn, unleashed a race to privatize vast tracts of the ancestral territories of the 17 first peoples of Paraguay. Furthermore, these parcels and farms are often simply declared to be private reserves under Act 352, which stipulates that private protected areas may not be expropriated or confiscated, thus denying any Indigenous claims to the land.

Analysis of Act 3001/06 on valuation and remuneration for environmental services

The Act on the Valuation and Remuneration of Environmental Services (Act 3001/06, also referred to as Payment for Environmental Services or PES) was intended to promote forest conservation – yet it is likely to have adverse impacts on Indigenous People and other poor sectors of society, such as small farmers, and on biodiversity. The Act, which promotes the sale of environmental services by establishing a market for those services, was adopted without adequate consultation with the social movements, Indigenous Peoples or small farmers' organizations.

When it was passed, the Act did not include specific rules or financing mechanisms. It simply stipulated that all the owners of land and the natural components that generate 'environmental services' will have the right to corresponding compensation for those services. No estimate was made of the total budget that this would require.

It transpires that the PES system will be funded with 'offset' payments, which are financed by businesses whose activities have negative environmental impacts elsewhere in the country. An offset margin of up to 10% of the budget of a project is required if an infrastructure project causes significant environmental impacts (according to the Environmental Impact Value Calculation). This means that businesses can now offset their environmental impacts by paying to protect biodiversity elsewhere. In other words, the Paraguayan PES scheme legalizes a broad range of environmental sins.

Water contaminated with agrotoxics near the Arroyo Claro community. Photo: Miguel Lovera

The Act also absolves landowners that have broken the forestry law (Forestry Act No 422/73), which stipulates that at least 25% of a landowner's holdings must conserve its original forest cover. Landowners can now compensate for illegal forest clearings by buying biodiversity offset certificates. At the same time, those landowners who *have* complied with the deforestation ban and conserved more than 25% of their land under forest cover are compensated and could receive payment for the forest area in excess of the legal area (25%) and for what were supposed to be obligatory actions to maintain 'environmental services.'

It is also important to analyze how apparently innocent theoretical proposals like PES impact on government, especially in countries like Paraguay, where corruption is a well-recognized problem. While Geographic Information Systems (GIS) have had a very important positive impact on forests in general (since they allow the government to verify forest cover relatively easily), the road from detecting an environmental violation to actually getting the perpetrator to pay a fine can be an exceptionally long and rocky one.

The reality is that it is very difficult for small landowners to actually get paid for an environmental service if they do not have family members or other connections high up in government. There are many examples in Paraguay of other public subsidies that have not been allocated to the intended beneficiaries (and still others that have ended up in illegitimate hands).

Furthermore, a full analysis of the offsetting process needs to consider how effective it is, or can be, within the broader national context. Considering rates of deforestation alone is not sufficient. The expansion of soy, especially, is considered by many to be one of the most challenging environmental and social problems in Paraguay. Yet soy growers plan to sow 2.8 million ha of soy in Paraguay in

2008 and hope to reach 4 million ha by 2010. This soy explosion threatens the country's remaining forests. The offsetting system fails to address this dilemma.

Will the poor benefit?

It was always thought that PES systems would benefit the poor, since many of the most valuable ecosystems of the planet are inhabited by Indigenous Peoples and other local communities with little financial resources. However, an often insuperable legal obstacle for many of the world's poorest people is that they do not have the legal deeds or land titles to their lands.
Although some PES systems, including the Paraguayan one, do officially recognize the rights of Indigenous Peoples, including their land rights and, implicitly, their right to receive compensation under PES, this only applies to officially recognized territories. It does not acknowledge the rights that the majority of Indigenous Peoples in the American Continent have to their original territories.

The Act also raises other tricky questions. For example, what happens to the Indigenous Peoples, small farmers and even small and medium property owners, that sign contracts to enter into environmental services schemes if they fail to deliver as specified in the contracts, or if they have to bear the risk of the project failing for external reasons (forest fires, for example)?

The current competition to own and use land, unleashed by the conservationists, is also developing into an insuperable obstacle for Indigenous communities, whose land claims have been stymied, since the current owners are keen to speculate with their land, selling to the highest bidder.

According to legal experts, the PES law is also inequitable because it requires that environmental impact assessments be conducted right at the outset. The prohibitive cost of such assessments immediately excludes many small and medium property owners, who are thereby denied any of the benefits that the PES scheme might otherwise bring them.

Paying for Environmental Services in the Chaco

In the Chaco, in the Western Region of Paraguay, Indigenous Peoples have suffered from the pressure of cattle ranching in their territories from the very beginning of European colonization. Until recently, almost all Indigenous populations were evicted from their lands. Currently, the Indigenous Peoples of the Chaco suffer pressures from expanding cattle ranching, compounded by the relocation of ranching from the Eastern Region. These lands, in turn, are declared 'apt' for soy cultivation by those driving the expansion of the soy frontier, to meet international demand for grain.

The Nivaclé People of the Mistolar community in the 29,876 ha Pozo Hondo Priority Conservation Site have explored the possibility of increasing their income by selling 'environmental services', within the framework of the PES Act. For this purpose, in 2007, the community had the Yvy Pora Foundation[10] do the necessary viability studies for decision-making

Soy plantations in Paraguay. Photo: Simone Lovera

(Management Plan of Environmental Services of the Lands of the Indigenous Mistolar Community). But the practicalities of conforming to PES requirements – which include presenting proposals and projects; determining the baseline; compliance with the norms on environmental impact assessments and calculating the value of socio-economic convenience of the PES mechanisms for the community - turned out to be far too costly for communities. Thus they still cannot compete with private sector or conservation group's initiatives and are unlikely to qualify for PES.

The situation of the other Indigenous Peoples of the Chaco is much like that of the Nivaclé People with regard to access to land, natural and economic resources and the lack of community infrastructure. In a series of consultation workshops, the peoples of the Chaco identified the following challenges: geographic isolation, discrimination and social marginalization, expropriation of their ancestral territories and the lack of land and natural resources.

The principal cause of poverty is the loss of ancestral territory, according to the Indigenous workshops' participants. This results not only in the lack of land and natural resources but also disrupts the continuity of traditional lifestyles. These lifestyles, based on knowledge systems developed and passed down for thousands of years while living in the territory, allows the Indigenous Peoples of the Chaco to enjoy a healthy and fulfilling life in harmony with nature. Ensuring the minimum area needed per inhabitant is crucial for maintaining the environmental balance and staying within the thresholds of acceptable change for each ecosystem and the carrying capacity of natural systems. With the expansion of the agricultural and livestock frontier in the Chaco, fueled by the migration of cattle ranching from the Eastern Region to the Boreal Chaco which is in turn caused by the expansion of soy production – the opportunities for re-accessing these peoples' traditional territories is significantly diminished.

In addition, private conservation areas are being established on the last remnants of natural areas, where there is biodiversity of tremendous cultural value for these peoples.

According to leaders of the Angaité, Ayoreo and Guarani Ñandeva Peoples, several nature reserves have been established in their ancestral territories without informing them, let alone obtaining their free, prior, informed consent (as mandated in ILO Convention 169, which has been ratified by Paraguay). The leaders reported that these reserves are established almost secretly and once again the Indigenous Peoples of the Chaco are in a disadvantaged position when it comes to fighting for their territory.

Paying for environmental services in the Mby'a Territory

The ancestral territory of the Mby'a People makes up approximately one third of the Eastern Region of Paraguay, about 50,000 km^2. Currently, the majority of this territory has been converted into large-scale mechanized agriculture, mostly of soy monocultures in rotation with corn, wheat, sunflower and other crops. Recent skyrocketing grain prices on the international market mean that demand for land suitable for grain production has at least doubled. This is mainly because of the global strategy to replace fossil fuels with agrofuels. The expansion of these crops means that they now border the last remaining lands where the Mby'a People live.

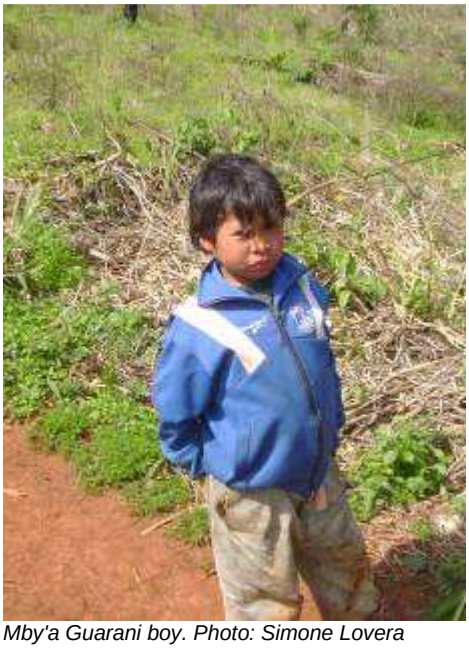
As a result there are now only 70,000 ha of forests left, dispersed in tiny parcels in the Itapua and Caazapa Departments. These remaining forests, within the ancestral Mby'a territory, are disputed by conservation organizations

(who are treated as allies by the State) and the Mby'a People, whose claim is based on their constitutional and ancestral rights. The area is totally privately owned, however, except for a little over 10,000 ha that formally belong to Indigenous Mby'a communities.

The land claim of the Indigenous People includes all the remaining forest, with the hope of maintaining it intact by practicing their traditional lifestyle, which, as in the case of the peoples of the Chaco, requires complete adaptation to the ecological dynamic of the forest.

The conservationists' strategy for the area, however, consists of The land The land claim of the Indigenous People includes all the remaining forest, with the hope of maintaining it intact by practicing their traditional lifestyle, which, as in the case of the peoples of the Chaco, requires complete adaptation to the ecological dynamic of the forest.

The conservationists' strategy for the area, however, consists of consolidating a system of private protected areas, which would control and limit Indigenous Peoples' access and rights to hunt and gather. This strategy violates the Indigenous



Mby'a Guarani boy. Photo: Simone Lovera

Peoples' constitutional and ancestral rights, including the right to self-determination, and is in contravention of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIPs) and Convention 169 of the International Labor Organization on Indigenous and Tribal Peoples.

According to Indigenous leaders of the Mby'a People, the conservationists, in their eagerness to implement their strategy, have resorted to buying lands in Mby'a territory with funds mostly derived from foreign donors. These institutions are prepared to exploit the market created by the PES Act.

The land in question mainly covers some 6,000 ha, according to the community leaders from Arroyo Morotí. This process of privatization of the Mby'a lands, has also given rise to a number of abuses including the violation of sacred areas and unauthorized bio-prospecting. The relationship between the Mby'a People and the conservationists is further complicated by the role of the State and multilateral aid agencies, who are all aggressively promoting the establishment of a protected area that restricts the ancestral rights of the Mby'a People.

The previously cited impacts on Indigenous Peoples are also found in the offset area that traditionally belongs to the communities of the Mby'a Guaraní in the San Rafael Hills in southern Paraguay. The San Rafael Hills have been slated to be demarcated as a National Park, a proposal firmly opposed by the Mby'a Guaraní, who consider these mountains their ancestral motherland (*tekoha guazú*) and fear that their land claims will be undermined if the area is officially declared a nature reserve.

However, the majority of the lands in the San Rafael Hills are also officially considered to be 'private property', and the whole zone is under intense pressure from the vast soy

monocultures that stretch to the East and the South and are now encroaching into the remaining forests as well. It is foreseen that both the soy growers currently operating in the zone, and the landowners that still own considerable areas of the forests in the proposed reserve will benefit enormously from the proposal to use offsets to compensate for the damage caused by soy expansion: soy can still be grown; and the 'owners' of the forested land will be handsomely compensated for conserving forests elsewhere.

The Mby'a Guarani People in communities like Arroyo Morotí and Arroyo Claro, on the other hand, may have to pay a high price, even if not in monetary terms. They already suffer from the persistent expansion of the soy monocultures. Their water resources are dangerously polluted from the runoff of the agrochemicals used in the surrounding soy plantations and the use of these chemicals in the pastures.

In particular, the Arroyo Morotí community has expressed their profound concern about the plummeting quality of drinking water in the stream they depend on, which has been seriously polluted by the agrochemicals used by the nearby soy producer. Furthermore, due to the increasing demand for land there are frequent incursions into the forest. For example, the forest of the Arroyo Claro community was devastated by the invasion of farmers ten years ago. After eight years pursuing legal remedies, the community was successful in getting the invaders to leave the land two years ago. Unfortunately, the invading farmers returned in September 2007 and threatened to continue deforesting the area. Because of these socio-environmental problems, many members of the Mby'a Guarani People have ended up in the outskirts of Caaguazú and even in the streets of Asunción, the capital of Paraguay, where they are extremely marginalized.

The Mby'a Guaraní communities are also adversely affected by the expansion of the private reserves, which are supposed to offset the soy expansion. In some hunting areas their access has been severely restricted, which has resulted, in turn, in overuse of the remaining areas, and malnutrition due to a lack of protein. Furthermore,

Arroyo Moroti community. Photo: Simone Lovera

their land claim processes, intended to recover their territories, are frustrated by the fact that the current owners of the private reserves may receive income under the PES plan. The landowners' rights, both within and outside the designated private area are disputed by the Mby'a, who consider the entire area part of their *tekoha guazú*, soil which they have always managed sustainably.

The communities are angry, because the landowners acquired huge tracts of land illegally, or were given them in questionable circumstances during the dictatorship, and now are hoping to cash in on the 'environmental services' the forests provide. Yet these are the same forests the Mby'a Guaraní have conserved for centuries.

Could the Mby'a Communities benefit from PES?

Of course, an assessment of the impacts of PES on Indigenous Peoples must also include an evaluation of potential positive impacts. From the legal point of view, communities like the Mby'a Guarani People of San Rafael in the South of Paraguay could

themselves request PES for the areas that are legally theirs. To do so, however, there are several obstacles that have to be overcome, including the issue of language.

Another is that the vast majority of these Peoples of the forests are not familiar with the marketing skills required to sell 'environmental services' such as CO_2 sequestration, especially in a complex and turbulent market. The hurdles that have to be jumped in order to acquire an Environmental Impact Value Calculation, a prerequisite to selling 'environmental services', also impedes the participation of poor landowners since this is an expensive undertaking. The large tracts of land that individual landowners hold also have a considerable competitive advantage over collective territory controlled by (sometimes loosely defined) communities, since decision-making is, by definition, a much simpler and swifter process for individual owners.
For Indigenous Peoples, the sale of 'environmental services' could in fact result in grave governance problems, since it is not always clear if the chief of a community has the mandate to be a legal representative for such contractual arrangements. In general, it is worth noting that transforming the current non-monetary economy of the Indigenous communities into a monetary one could have profound impacts on cultural and environmental values and traditions.

Women are likely to suffer most, as their interests are more likely to be over-looked in commercial transactions, which are normally closed by men. Women also have a disadvantageous position in monetary economies in general, as they spend a significant part of their time on activities, such as childcare and household management, that are not rewarded in monetary terms. Moreover, they are generally underpaid in the formal labor market, as well as being responsible for providing potable water and other vital non-monetary goods for the family.
Also, clean and healthy drinking water cannot be obtained from another source, regardless of whether money can be earned by selling 'environmental

Deserted house near the San Rafael hills. Photo: Simone Lovera

services', There simply is no formal public service that provides water near the communities. Buying water is also impossible because of the distances involved (especially considering the fact that the community does not even have transportation).

In particular, it is likely that politically influential groups will enjoy greater access to the funding than politically marginalized groups such as Indigenous Peoples and small farmers. A bad government plagued by corruption and market-based conservation mechanisms are a dangerous combination. The experience of implementing the Promotion of Reforestation Act is illuminating in this regard.

Manifestation against large-scale soy production and the Roundtable on Responsible Soy, August 2006. Photo: Sobrevivencia

The PES Act and Environmental Governance

In summary, the Paraguayan PES Act will probably have several adverse impacts on Indigenous Peoples and other poor sectors of society such as landless small farmers and women because:

- The distribution of land in Paraguay is extremely unfair and the lion's share of any PES funding will undoubtedly end up in the pockets of the large landowners as a result.
- The act undermines the ongoing agrarian reform and Indigenous Peoples' land claims to their territory, since it increases the value of unfarmed land.
- The PES system will be impacted by the grave problems of governance that plague the country.

Conclusions

In the case studies from Paraguay, it is clear that market-based conservation mechanisms create or exacerbate a series of key obstacles, both in relation to nature conservation and the full exercise of the rights of Indigenous Peoples. These problems, including competition for land that is vital for these peoples, the creation of financial burdens for the State, and the erosion of Indigenous lifestyles, are all caused by a style of conservation based on the buying and selling of the environmental functioning of natural systems, also known as 'environmental services'.

Funding for the PES program is supposed to come from the National Environmental Fund, created in 2000 (with strong support from environmentalists) and intended to finance the implementation.

Ache family. Photo: Miguel Lovera

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Photo cover*: community gathering of Mby'a guarani to talk about the impacts of PES on their community" by Miguel Lovera*

October 2008

LIFE AS COMMERCE:
Biodiversity offsets in Paraguay

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Manifestation against large-scale soy production and the Roundtable on Responsible Soy, August 2006. Photo: Sobrevivencia

AlterVida: “Founded in 1985, the organization works on environmental and socioeconomic issues at the national level. The main areas of action are agroecology, pesticide use avoidance, biodiversity conservation and sustainable use, Indigenous Peoples’ rights and urban environment. AlterVida is a necessary reference on issues referring to environment and development issues in Paraguay .”

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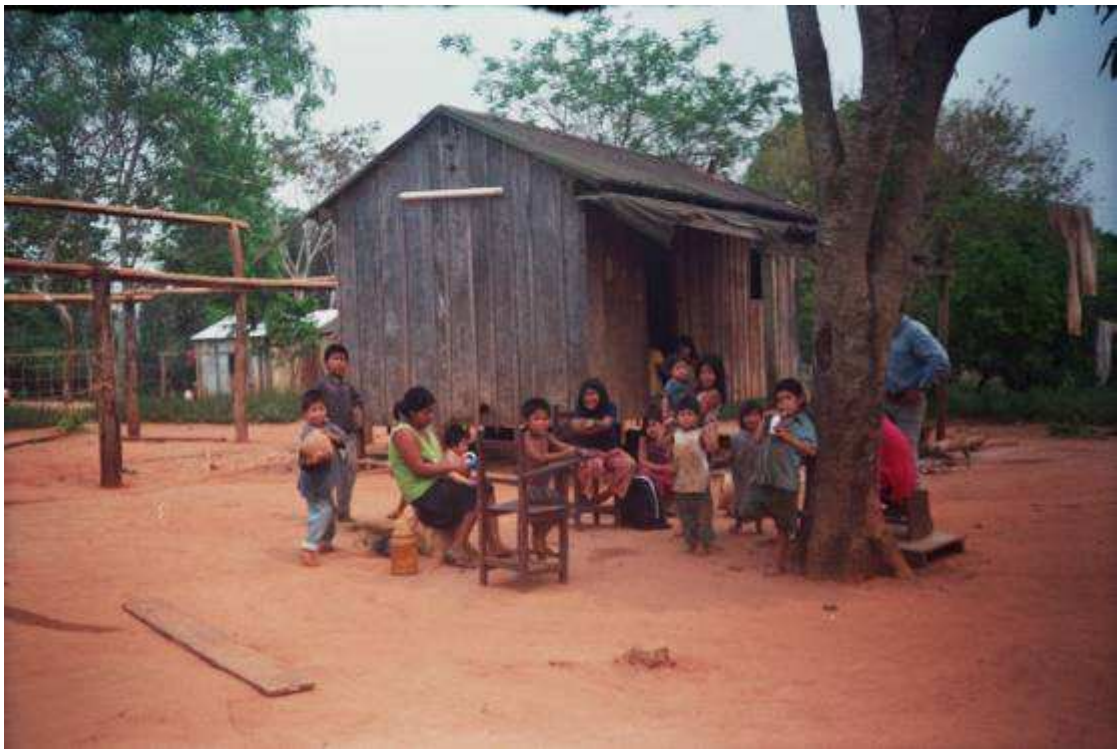
Conclusions

The case studies in this publication demonstrate that local communities, Indigenous Peoples and women are at a severe disadvantage when it comes to the use of market-based mechanisms to conserve biodiversity; and that this holds true even for those communities and Peoples that decide to try and engage with the various mechanisms in use. The case studies also show that there can be marked impacts on communities' systems of governance, both within and between communities; and in relation to biodiversity.

One central dilemma is the fact that markets cannot work without privatization. Yet how can we justify privatizing and putting a price on all the elements of biodiversity and the environment, based on the simplistic belief that this will ensure markets function efficiently? Is this really feasible? Can it ever be equitable or ethical? And who has the right to own that biodiversity? Is it really acceptable for foreign speculators to purchase biodiversity- and carbon-rich land, which may well rightfully belong to Indigenous Peoples, in the hope that it will generate future profits for shareholders through its ability to provide environmental and carbon sequestration services?
The use of market-based mechanisms inevitably means that the odds are stacked against those in a weaker initial negotiating position. This includes people with no legal land tenure and those unable to afford the considerable expense involved in the preparation of environmental impact assessments, the delivery of environmental services, the fulfillment of a range of quantifiable qualification criteria and the provision of upfront and operational finance, including insurance against project failure.

This implies that market-based conservation mechanisms will inevitably lead to increased corporate governance



Ache family, Paraguay, by Miguel Lovera

over biodiversity conservation, and erode the governance systems of (monetary) poor communities and social groups including Indigenous Peoples and women.

The social impacts of market-based conservation mechanisms

In response to the concerns raised during consultations with community representatives, the case studies focused primarily on the social impacts of market-based schemes.

They show that some communities that are formally engaged or trying to engage with the various market mechanisms are not benefiting from them. In Paraguay, the Nivaclé People, found they could not benefit from participating in the Payments for Environmental Services scheme, even though they were successful in securing free external assistance to draft viability studies. Similarly, in India, the rights that local self-governing *panchayats* have to license and manage ecotourism in their areas are effectively ignored in practice. In South Africa, the miniscule financial compensation on offer from certified timber companies in no way compensates local communities for their loss of food security, water and decent employment.
The provision of employment is often mentioned as one positive impact that market-based schemes can have on communities; and indeed, several community representatives in the case studies in Colombia and South Africa did mention the number of jobs the companies had provided. However, it was also pointed out that the labor conditions in both were far from ideal and the *quality* of employment was decreasing. In both cases, many of the jobs were seasonal and/or out-sourced, which meant insecure contracts and low wages. The South African community representatives also commented that an equal or even greater number of jobs had been lost in small local enterprises forced to compete for supplies with the larger certified company.

In all case studies, except for the one in Costa Rican, the negative impact on livelihood systems, food security and/or water availability was mentioned. Indigenous communities like the Mby'a Guarani in Paraguay, who have successfully conserved their forests over many generations, have not only been excluded from market-based mechanisms: they have also been actively threatened with exclusion from their own hunting grounds, which would have negative impacts on their daily protein intake. The use of community lands for timber production in South Africa has also resulted in those communities becoming dependent upon commercially bought food, whereas they were previously at least partly self-sufficient in food production. South Africa is one of the countries that has been most severely affected by the recent food price boom.

The most significant impact reported, however, was the sense of disempowerment that many community representatives felt. In all cases, they revealed that their control over their forests and livelihoods had decreased because the main decisions were now taken by other actors. Thus, whereas communities had previously fostered their own governance systems, promoting sustainable management of biodiversity for their own and future generations, they were now more likely to act individually (deliberately or otherwise), pursuing their own individual economic interests: jobs, profits and financial rewards. Traditional biodiversity-related knowledge was less likely to be shared, communal lands were more at risk of being privatized and sold off, and biodiversity-friendly economic activities like bee-keeping might have to be sacrificed to protect monoculture timber plantations.

In India, people in the *panyachats* reported that they felt incapable of

participating effectively in the development and planning of large commercial ecotourism projects. In South Africa, consultations with communities also revealed that decision-making is subtly dominated by corporate interests: it was felt that the corporation in question has steered investments in community development towards projects that were more likely to be advantageous for the company than the community.

It also transpired that the large flows of financial resources at stake are causing tensions within the communities themselves, in Costa Rica, Colombia and Paraguay, for example.

A further consequence of the use of market-based conservation mechanisms that cannot be ignored is their impacts on community governance and gender relations. The case studies described in this publication indicate that the enticements offered to communities (whether or not they are likely to materialize in reality) can result in grave governance problems.

Difficulties might arise, for example, in situations in which it is not clear whether the chief of a community has the mandate to be a legal representative for such contractual arrangements.

There were also reports of conflicts flaring up in some indigenous villages in Costa Rica when certain people in the community had chosen to sell medicinal plants or share their knowledge in exchange for financial gain, even though this was frowned upon by the rest of the community.

The case studies also indicated that the position of women within their communities is also likely to be affected, as their interests are more likely to be over-looked in commercial transactions, which are normally closed by men (even if the women previously had responsibility for matters related to forests and biodiversity). Women also have a disadvantageous position in monetary economies in general, as they spend a significant part of their time on activities such as childcare and household management, that are not rewarded in monetary terms. Moreover, they are generally underpaid in the formal labor market, as well as being responsible for providing clean water and other non-monetary goods for the family.

In the South African case, it was reported that tensions were occasionally so high that some community members, resentful of grazing land being taken over by timber plantations, had deliberately set fire to those plantations. In Indigenous communities in Costa Rica, there were tensions between those who sold elements of traditional knowledge to bioprospecting teams and those who felt that this was an infringement of the communities' cultural values.

It also transpired that some market-based conservation mechanisms, such as biodiversity offset markets, have been designed so that companies can now buy their way out of infringements of existing environmental laws. The case studies also indicated that market-based mechanisms are particularly attractive to corrupt government departments: they are both profitable and complex, meaning that sizeable, new sources of finance can easily be diverted to corrupt officials and their corporate allies.

The case studies in this document also demonstrated that market-based mechanisms often go hand in hand with the privatization of land and resources - and that, as a result, communities' traditional rights to those lands and resources can be even *less* likely to be recognized and respected under market mechanisms than they were previously.

It was also reported that land reform processes are being negatively impacted by market-based conservation mechanisms and related

biodiversity privatization. As land increases in its actual value and income potential, some resources are simply being reallocated to large land owners, as has happened in Paraguay. But even in countries such as India and South Africa, where Indigenous Peoples' and local communities' land rights are afforded protection under the law, local authorities reported that they are having to carry an additional heavy burden of providing and financing local services for eco-tourists and timber companies respectively.

In conclusion, there is evidence to suggest that market-based conservation mechanisms undermine community governance systems. It has often been stated that negative impacts can be avoided if the proper rules are in place, but in real life, such rules are often missing. The Life as Commerce analysis is an attempt to compare this theory with real-life experiences.

The countries chosen are not exceptional in this respect. In fact, countries like South Africa and India could be classified as positive exceptions, since they already have rules safeguarding community governance over biodiversity. But even here the rules, and the capacity to implement those rules, are not strong enough to prevent market-based conservation mechanisms having a negative impact on local communities and their governance systems.

Erosion of community governance over biodiversity

The case studies also demonstrated another important trend: that market-based conservation mechanisms are often ineffective in terms of conserving biodiversity; and can even have negative impacts. This trend is partly a consequence of the shift from community governance to corporate, profit-oriented governance over biodiversity. Even in Costa Rica, the case study revealed that bioprospecting has impacted negatively on deep-rooted Indigenous value-systems that fostered the free and open sharing of traditional biodiversity-related knowledge. The case study revealed that the threat of possible misappropriation of this knowledge by large corporations is having an increasingly negative impact on this tradition of sharing within the community. This is a major threat to traditional knowledge, which is already under threat of being lost due to urbanization, loss of languages and the erosion of Indigenous cultural traditions. Traditional knowledge is a product of sharing; it becomes very vulnerable if individuals and communities start keeping it to themselves for fear of corporate misappropriation.

In Colombia it was clear that the PROCUENCA project reduces people's autonomy over their lands, both in terms of what species are planted, how plantations are managed, and whether there are reasonable financial returns generated by the project's activities. The fact that the project was also able to reclassify regenerating forest as 'stubble' in order to allow plantations to be established gives a further example of the way in which PROCUENCA is reducing communities' governance over their local biodiversity.

In India, it was obvious that ecotourism development has been virtually de-linked from biodiversity benefits. The case study found that ecotourism targets many of the most precious wildlife areas of the country, but there are no clear standards to ensure ecotourism enterprises do not harm those areas. Instead, analysis of the formal policy instruments of the Central Government and a number of key states found that ecotourism is seen not as an industry that benefits biodiversity, but as an industry that benefits *from* biodiversity. The impacts of water consumption, infrastructure development and waste disposal are rapidly becoming a major threat to

biodiversity, especially in more vulnerable areas.

In Paraguay, the biodiversity offset market is allowing soy farmers and other corporate interests to get away with environmental crimes and violations, including violations of deforestation laws. They can simply offset the negative environmental impacts through a financial contribution to the Payment for Environmental Services (PES) schemes. At best, the biodiversity impact of this market-based mechanism is neutral. In reality, though, the effectiveness of the PES scheme is far from proven, especially if compared to the command and control mechanisms previously implemented: a deforestation moratorium in the East of the country led to an estimated 83% reduction in deforestation in just one year. As land owners in this same region are now *de facto* permitted to deforest again, provided they pay a financial offset, the environmental impact of the new law can be seen as negative.

In this light, it is important to keep in mind that the law itself was clearly an outcome of the dominant influence of soy farmers and other large-landholders over Paraguayan policy-makers: before the elections of 2008, it was estimated that 95% of the senators and parliamentarians were large landholders themselves, As such the PES law can be seen as both a product of, and a tool for, corruption.

In the forest sector, the effectiveness of market-based conservation mechanisms is plagued by a more profound problem: the fact that the definition of 'forests' that is normally used includes monoculture tree plantations. These tree plantations have, almost by definition, a negative impact on biodiversity. As shown in the case study from Colombia, even if relatively small-scale tree plantations are established on former coffee plantation lands, they may still be replacing the far more biologically diverse bushland that was naturally regenerating.

Indeed, provided there is enough time, most so-called 'degraded' land will return to forest or other natural ecosystems. Replacing such slowly regenerating ecosystems with monocultures has serious biodiversity opportunity costs. Both in Colombia and in South Africa, the case studies show how market mechanisms that were set up with the aim of conserving biodiversity have been abused by monoculture tree plantation companies, to claim subsidies (in Colombia) or marketing benefits through certification (in South Africa).

It should be emphasized that these negative biodiversity impacts are both cause and consequence of the erosion of community governance due to market-based conservation mechanisms. By increasing the influence that already economically powerful profit-oriented actors have over biodiversity policy, the implementation of these mechanisms is also indirectly subject to profitability criteria.

To put it simply: the final objective of an FSC-certified company is not to save the forest, but to sell timber; and the latter is more efficiently produced in large-scale tree plantations. It thus comes as no surprise that the overwhelming majority of FSC-certified timber in countries like South Africa is derived from monoculture tree plantations. Unless market forces themselves make a much clearer distinction between biodiversity-friendly and non-biodiversity-friendly timber, more 'efficient' certified plantations will be preferred over certified natural forests.

The same trend is becoming visible in the carbon offset market, which also suffers from a definitional problem. The Conference of the Parties to the UNFCCC classifies any kind of tree plantation – including those that are

"temporarily unstocked areas" - as 'forests'.

While the proponents of the carbon offset market are fanatically using the so-called 'co-benefits' for biodiversity as one of their strongest arguments, the overwhelming flow of carbon offset funding from the formal market (the Clean Development Mechanism) is destined for tree plantations.

Profitable plantations also dominate the portfolio of the different carbon offset mechanisms administrated by the World Bank. While the carbon storage value of natural forests is much higher than the carbon storage capacity of tree plantations, rapidly growing, often exotic tree species are a considerably more profitable carbon offset mechanism.

Market-based conservation mechanisms are rarely the most efficient way to conserve biodiversity

One additional, remarkable conclusion of several of the case studies is that market-based conservation mechanisms seem to be a highly inefficient means of conserving biodiversity.

In Costa Rica, bioprospecting has proven to be economically inefficient, requiring substantial donor and other government support.

In Paraguay, the budget needed to actually implement the PES law was reported as being a significant problem, especially for the new government, which is now faced with several such subsidy schemes, mainly set up by the wealthy elite for their own benefit. The lack of any sound financial basis for the scheme has undoubtedly been one of the reasons why no actual payments have occurred yet.

Both the Paraguayan PES scheme, and its predecessor, the well known Costa Rican PES scheme, seem to be anticipating the inclusion of forest conservation in the global carbon market as a possible source of financial support for their own national schemes. However, qualifying projects will have to demonstrate environmental integrity and additionality, and that they prevent leakage, meaning the PES projects may be unsuccessful.

In India, the ecotourism model is unquestionably profitable for the market, but as stated above the impacts on biodiversity are very uncertain at best. Here again, the market frustrates sound biodiversity policy-making, as the most profitable tourism projects are biodiversity-unfriendly.

Meanwhile, in both India and South Africa, the projects analyzed by the case study were found to impact negatively on local government finances.

In Colombia and South Africa, the case studies also make it clear that profitability and biodiversity conservation rarely go hand in hand; the market clearly favored monocultures instead of diverse systems. Even more remarkable is the fact that the carbon offset market in Colombia needed to sustain itself with a significant amount of public subsidy, even though it is often lauded as a major economic opportunity. Considering the fact that the subsidies were directed to projects that had negative overall impacts on biodiversity and significant negative social impacts, one may seriously question whether this is a sound use of public money.

Subsidizing markets or communities?

The Colombian example also points to a wider trend: that so-called market-based conservation mechanisms are

Eucalyptus plantations, the green blanket of death, South Africa. Photo: Wally Menne, the Timberwatch Coalition.

almost all the result of significant non-market support.

Donor governments, national governments and a number of large conservation organizations have spent millions of dollars over the past decade to promote and subsidize markets for 'sustainable' timber, 'eco' tourism projects, carbon and biodiversity offsets and genetic resources. Considering the real-life experiences described in this report one may seriously question whether this money was well-spent.

Some of the tensions between good governance and market-based approaches that were detected at the national level are also visible at the international level. The World Bank and some large UN agencies, for example, clearly stand to benefit financially by positioning themselves as brokers on the environmental services markets.

The conservation, development and forestry consultancy sectors also have a very strong financial stake in these markets, due to the technical knowledge required for their effective implementation. Such stakeholders have shown a clear interest in these market-based mechanisms, especially in the current negotiations on potential market-based approaches to Reducing Emissions from Deforestation in Developing Countries (REDD).
Many of these negative impacts could be avoided by using strictly regulated initiatives. In fact, there seems to be a growing consensus amongst biodiversity policy makers that we need to control market forces through strict regulation and effective enforcement. For example, experience to date shows that the best 'PES' schemes are actually conventional subsidy or integrated poverty and development projects; re-baptizing them as PES was supposed to mobilize political will amongst economically powerful sectors for biodiversity conservation.

In itself, reclassifying sustainable forest management subsidies as Payments for Environment Services schemes does not have to be harmful. However, there *is* a major risk involved if these schemes are subsequently included in multilateral and bilateral trade agreements, on the basis that this will stimulate trade in 'environmental services' and bring social and environmental benefits. Trade agreements are likely to undermine or even prohibit the social safeguards needed to make 'environmental services' function, as described above.

The proposed liberalization of trade in 'ecosystem services', under the World Trade Organization's General Agreement on Trade in Services (GATS) and similar clauses in bilateral and regional trade agreements, imply that special safeguards for Indigenous Peoples and/or local communities could be challenged as being 'discriminatory' by governments and/or large corporations and foreign conservation organizations (depending on the dispute settlement processes attached to the various agreements). So using the term 'markets in environmental services' for conventional subsidy schemes intended to reward communities for sustainable ecosystem management could have some severe negative legal consequences.

The great advantage of public governance systems is that they can be shaped in a manner that directly benefits the most marginal groups in society, including women and Indigenous Peoples. Even in 1992, international public governance adopted the principle of rewarding the so-called incremental costs of providing global environmental benefits. Both the Convention on Biological Diversity and the Framework Convention on Climate Change that were signed that year oblige all governments to conserve forests; and require developed countries to contribute new and additional financial resources to reward developing countries for the incremental costs of providing global environmental benefits through reducing deforestation. The fact that the overwhelming majority of developed countries have not complied with these legally binding agreements does not imply that they do not exist anymore.

New and additional financial resources are still required to support sustainable, democratic and well-enforced public governance of biodiversity, including through redirecting perverse incentives, banning deforestation and safeguarding Indigenous rights. As Adriana Ramos of the Instituto Socio-Ambiental in Brazil pointed out at the fifth Trondheim Conference on Biodiversity: *"The majority of areas where we stopped deforestation in Brazil are Indigenous lands".* Respecting Indigenous land rights has arguably been one of the most equitable, effective and efficient policy incentives for sustainable forest management, and should be the focus of any policies intended to conserve biodiversity.

In practice, that means, for example, ensuring that *panchayats* in India really do have full control over when, where and how any ecotourism should take place (if at all), as they are supposed to have under the Constitution of India's 73rd Amendment. The local self-government institutions need to be involved in all levels of ecotourism development, from approval of the project, to planning, implementing, development, marketing, evaluating, monitoring and research. The local self-government institutions also have the right to formulate regulatory frameworks, although the onus of ensuring compliance from the tourism industry rests with state governments, and needs to be drawn from environmental and forest laws in force and relevant multilateral environmental agreements.

India's constitutional amendments have also strengthened women's participation in decision-making through reservation in all levels of the three-tier governance system. Their role in charting the course of tourism development in accordance with community aspirations must be reinforced.

Respecting community rights also means that communities such as those in South Africa, who are fortunate enough to own or have title over their lands, should be able to tend and use these resources to feed their families and earn a living as they see fit, rather than being persuaded or coerced into handing them over to be used as extensions of timber plantations, losing

food security, access to water and a decent income in the process.

In Costa Rica, Indigenous Peoples are already striving to resolve these issues for themselves. All indigenous people in the country have undertaken a process to define their community rights regarding traditional knowledge, as a way of avoiding their appropriation by non-indigenous people. They have also conducted a joint analysis to see how communities can move away from the problems posed by bio-prospecting and develop collective solutions that result in a strengthening of community rights and cultural identity.

Any meaningful community development intervention should also be one that prioritizes the increased production of food and enhances food security at the household level. A more sustainable model would allow competing uses of land, promote land use activities that do not waste water and provide opportunities for employment creation. Community land should be used for those activities that promote food security and skills development and conserve biodiversity.

In conclusion then, Indigenous and local community governance over forests and other ecosystems has proven to be an effective, efficient and socially sound policy measure to conserve biodiversity and improve community well-being. The new policies and laws to respect community governance and Indigenous territories in countries as varied as India, South Africa and Colombia are a clear outcome of this increased awareness. Well-designed and properly managed public incentive schemes to further strengthen sustainable community governance over their own forests, based upon the recognition of Indigenous and local community territorial rights, have proven to be effective, efficient and socially just.

Governments and other donors should undertake a profound analysis of market-based conservation approaches to assess whether they really do strengthen rights-based, socially just biodiversity conservation policies, or whether they are, in reality, ineffective, inefficient and risky, contributing to the erosion of good public governance over biodiversity.

Ache family living on the edge of their ancestral territory, currently the Mbaracayu private nature reserve, by Jose Rodriguez

LIFE AS COMMERCE:
The impact of market-based conservation on Indigenous Peoples, local communities and women

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Arroyo Claro community in the San Rafael area in Paraguay. Photo: Simone Lovera

The Global Forest Coalition (GFC) is an international coalition, which was founded in the year 2000 by 19 NGOs and Indigenous Peoples' Organizations (IPOs) from all over the world. It's objectives are to facilitate the informed participation of NGOs and IPOs in international forest policy meetings and to organize joint advocacy campaigns on issues like Indigenous Peoples' rights, the need for socially-just forest policy and the need to address the underlying causes of forest loss.

www.globalforestcoalition.org