

Sustainable development: Widening gap between North and South

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THE ever-widening gap and disparity between the developed North and developing Southern countries was quite evident at the second session of the Preparatory Committee (PrepCom) for the World Summit on Sustainable Development (WSSD) held at New York from January 28 to February 8, 2002. The Northern countries dominated the global negotiations held at UN Headquarters. The voice of the developing Southern countries were at times divided and at times unarticulated. In the absence of strong and articulated leadership, Southern countries failed to match their government and non-government counterparts. What was interesting, in the multi-stakeholder dialogue also, representatives of nine different groups were also dominated by the developed countries. Representation of the affluent countries was strong and large. Because of lack of resources, support and smartness, participation of the developing countries was quite weak and small.

At the two-week PrepCom II some of the structural weaknesses of the global negotiation were exposed. The achievements of the forthcoming PrepCom III in late March in New York will depend on how best the secretariat can ensure the adequate participation and quality of the representatives of Southern countries. Can countries like Bangladesh, Indonesia, China, South Africa, Brazil, India, Pakistan and Egypt within Group-77 come up with a more concrete set of proposals and means of implementation to

help achieve sustainable development by improving the quality of life in the Southern countries, some of which are the pockets of endemic poverty, hunger, illiteracy and backwardness?

The goal of the forthcoming WSSD in Johannesburg is to conduct a review of Agenda 21 and its implementation, with one of the key outputs being a 'concise and focused document that emphasizes the need for a global partnership and integrated and strategically focused approach to the implementation of Agenda 21, addresses the main challenges and opportunities faced by the international community, and reinvigorates at the highest level, global commitment to a North-South partnership, a higher level of international solidarity, accelerated implementation of Agenda 21 and promotion of sustainable development.'

The primary objective of PrepCom II was also to prepare a document that could provide the basis for negotiation and lead to realization of such an output by the time of the Summit. Did PrepCom II rise to the occasion? Representatives of developed countries, be government or stakeholder groups, were more or less happy about the outcome of the process so far. But, representatives of the Southern countries, especially the handful of chosen NGOs were clearly unhappy.

The applause PrepCom Chair Dr. Emil Salim of Indonesia received upon presentation of the Chairman's Paper, the affirmative comments from regional groups that this Paper will provide a 'good basis' for negotiation during PrepCom III, and

the Commission's approval for its transmission to the subsequent PrepCom for negotiation suggest that PrepCom II did indeed achieve some its objectives. One enthused delegate even suggested that the document was 'more than we deserve.' A surprised Bureau Member, Ositadinma Anaedu, commenting the Chair, quipped, 'I did not believe Mr. Chairman, you could produce such a document in such a time....' But some of the Southern delegates were not that happy.

All agreed that while the Chairman's Paper was well-received, its development was challenging at best. With the exception of poverty, there was very little consensus among delegations, the regional preparatory meetings and the Multi-Stakeholder Dialogues about the priority issues to be addressed in Johannesburg. Narrowing down these many divergent priorities to just a few agreed ones was viewed by some as an overwhelming task. By the end of the first week of the session, it was still unclear, even to the Bureau, how to go about preparing this draft.

During the second week there was enough criticism to go around. The G-77/China was criticized for its lack of cohesion, which led to holding one informal Interactive Discussion instead of the two parallel ones as initially planned, which further complicated the process of text development. Several delegates also lamented that the Secretariat had too much control in the actual writing of the Chairman's Paper. Despite their presence, there was neither direct involvement of the Regional Commissions that had facilitated regional preparatory

processes nor of other UN family members with the requisite issue expertise. Some complained that some of the ideas that emerged during the Multi-Stakeholder Dialogues, such as youth and women, were not reflected in the Chairman's Paper. Media was not represented as a stakeholder group. After growing demand of the delegates, the secretariat organised a panel discussion on the role of media to achieve sustainable development. But that very few chosen media representatives were also mostly from the developed countries. Southern media were not represented.

However, some participants agreed in the end that the process of making 'order out of chaos' was efficient. Chair Salim and his Bureau and the Secretariat succeeded in producing a paper that enjoys broad support. The Paper's initial success lies in its reflection of the key issues of interest to the various regions: poverty, means of implementation, consumption patterns and sustainable development governance for the G-77/China; oceans and a separate section on the AIDS for AOSIS; poverty, partnerships and voluntary outcomes for the EU; domestic governance, markets and voluntary outcomes for JUSCANZ; and, for Saudi Arabia, the subjugation of energy into a broader theme. However, the ability to maintain a balance between adhering to the often-heard mantra that 'we're not renegotiating Agenda 21' and temptation to generate many new issues, as well as the ability to convert what Hungary observed was still a 'wish-list' into concrete, time-bound action-

oriented proposals, are likely to be key challenges at PrepCom III.

The expectation of Summit participation and commitment at the highest level begs this key question: Are Heads of State and Government actually willing to put their political clout behind the Johannesburg goals and ensure the Summit's success? It appears that most countries are biding their time until at least PrepCom IV in Jakarta to decide whether their Heads of State or Government will attend. While it makes sense that the final decisions of political leaders to attend the WSSD will wait until there is a clearer sign of the nature of the documents to be adopted and the process shows signs of success, there is a psychological dimension. Once Heads of State commit, delegations will be more likely to buckle down and engage in serious negotiations in order to reach consensus.

True, there is a growing feeling of summit fatigue. At least three large conferences this year, including the International Conference on Financing for Development in Monterrey in March, which is drawing media attention and government commitment, as well as the World Food Summit in June (and even an Ecotourism Summit in May), countries are already feeling this 'summit fatigue.' Also, the Summit's timing - in the midst of an economic downturn with regressive environmental policies almost everywhere, and with world attention focused on security, international instability and brewing and new conflicts - does not bode well for political support and high-level attendance. On the top of it, lack of public and media attention

is not helping to raise the Summit's profile. As the media panel compellingly articulated, the role of the media in stimulating public support for the Summit and pressure for leaders to attend cannot be overemphasized.

Against this backdrop, Jan Pronk, the Secretary-General's Special Envoy to the WSSD, is working hard to commandeer support and this summer, Sweden and Brazil, hosts of the 1972 and 1992 Summits, with South Africa, will make a collective appeal to world leaders to attend the WSSD.

During PrepCom II, the most talked about issue was governance. Almost all participants have expressed their positions on how to strengthen its different dimensions. This topic is shaping up to be one of the focal points at PrepCom III. Some developing countries clearly prefer no final decisions on international environment governance (IEG) before there is a clear understanding on effective sustainable development governance (SDG). The Northern donors, while supporting proposals to strengthen SDG, insisted on adding a focus on national governance through the creation of an appropriate national investment climate, corruption-free government, transparency, justice and respect for human rights. In other words, following an idealized blueprint of how countries should operate. Some Southern delegates attributed this position to a desire to avoid financial commitments to developing countries until these stipulations are met. The G-77/China and some others voiced strong objections, noting that domestic governance is a matter of national jurisdiction and that only the global and regional aspects of governance should be discussed. Caustic remarks were made in the closing Plenary, that if the North wants to monitor national practices, they should turn the monitoring lens on themselves and apply similar standards.

Yes, there are several subtexts in the governance issue. Unlike the IEG, with UNEP and multilateral environmental agreements at its core, there is no comparable governance structure for sustainable

development, except the CSD itself, which is regarded as ineffective. Many issues have to be considered in this context including, ongoing institutional reform at the UN, inter-agency relations, the missing link to financial institutions, the emerging role and possible input mechanism for Major Groups and other stakeholders, the role of ECOSOC, the mandate and authority of the CSD, and the various turf wars about the future shape and responsibilities of CSD and UNEP. Numerous concrete proposals for strengthening SDG were made at PrepCom II, but it remains to be seen how governments choose to act upon them. An inter-sessional informal consultation on SDG is expected to be held at the end of February to help Co-Chairs Göran Engfeldt and Anaedu prepare a discussion paper for consideration at PrepCom III. Given the amount of time it has taken UNEP to advance IEG, it is questionable how comprehensive the Committee can address SDG in the remaining six months.

Some optimists say, participants can return to their capitals and missions with reports of veritable successes from PrepCom II. The meeting can count among its achievements a meaningful dialogue among Major Groups and government delegations though dominated by the North. There was also progress made on rallying support for partnerships and outputs that could result in voluntary initiatives. However, the most remarkable success of the PrepCom is having fulfilled its simple but challenging mandate of producing the Chairman's Paper, and in doing so, providing the structure of what is expected to be one of the most important outcomes of Johannesburg.

However, participants in the WSSD process must not rest on their laurels: there is still much to be accomplished prior to and after PrepCom III. Better coordination is needed in group positions, in particular the G-77/China, to ensure a clear voice in future deliberations. Participants need to vigilantly track the evolution and development of the binding and voluntary Summit outcomes. Delegations are likely to

jockey on these outcomes to ensure their negotiating objectives are inserted into the outcomes that best reflect their national interests. Some participants expressed concern that both past commitments and new proposals - such as those on provision of financial resources, creation of enabling domestic environments and corporate responsibility - may be moved into voluntary outcomes, when many feel it is imperative that these be negotiated as binding agreements. Real participation of the Southern countries and groups should be ensured at any cost to make the WSSD most successful one.

All said and done, it is incumbent upon all delegations - governments, UN agencies and Major Groups alike - to make certain that they live up to the challenge of providing an outcome that is relevant, substantive, forward-looking and with action-oriented and time-bound targets. In the words of Chair Dr. Emil Salim, 'Facing a turbulent world, we must be successful in drawing the map for a journey of hope to reach the goal of a world without poverty.' Dr. Salim was a member of the Indonesian dream team. Can he realise his dream of sustainable development across the developing Southern countries? Can WSSD Secretary General Nitin Desai ensure the participation of the Southern countries at the highest level? Can he ensure adequate participation of Southern multi-stakeholder groups to help chart a sustainable future at Johannesburg summit? Can we ensure the participation of Bangladesh Prime Minister Begum Khaleda Zia and other leaders of the developing countries. How the Southern countries will raise their negotiation skills, capacities and qualities of participation? The United Nations should look back in that direction.

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A worldwide fight against biopiracy and patents on life

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THERE is growing worldwide opposition to the granting of patents on biological materials such as genes, plants, animals and humans. Farmers and indigenous peoples are outraged that plants that they developed are being 'hijacked' by companies. Groups as diverse as religious leaders, parliamentarians and environment NGOs are intensifying their campaign against corporate patenting of living things.

WORLDWIDE opposition to biological piracy' is rapidly building up as more and more groups and people become aware that big corporations are reaping massive profits from using the knowledge and biological resources of Third World communities.

There is growing public outrage that these companies are being granted patents for products and technologies that make use of the genetic materials, plants and other biological resources that have long been identified, developed and used by farmers and indigenous peoples, mainly in countries of the South.

Whilst the corporations stand to make huge revenues from this process, the local communities are unrewarded and in fact face the threat in future of having to buy the products of these companies at high prices.

The transnational corporations are racing one another to manufacture pharmaceutical and agricultural products, the main ingredients of which are the genetic materials of the medicinal plants and food crops of these local communities. The firms are also collecting other living things, ranging from soil microorganisms to animals and the genes of indigenous people, which they use for research and making new products.

These companies are rushing to apply to patent the new products containing the collected genetic materials, so as to prevent competitors from using them. They can then reap larger profits from being able to hike up prices for the products, or by charging royalties to other firms wishing to use the technology.

There is much at stake in this great race of companies to patent ahead of their rivals, for the coming century is already being termed 'the age of biology', when products derived from biological materials are expected to increasingly replace those made from metals and chemicals.

The genes of living organisms are the basic 'raw materials' of the new biotechnologies. The 'Gene Rush' has thus become a new version of the old 'Gold Rush', in the scramble for future profits.

Farmers and indigenous communities, backed by citizen groups,

The knowledge, innovation and efforts of these communities are not acknowledged (and indeed are discarded) when the legal 'intellectual property rights' systems grant patents on genetic and biological materials and on living organisms to corporations. This injustice is being fought at different levels by farmers, indigenous people and public interest groups. For the past few years, NGOs such as RAFI, GRAIN and the Third World Network have been networking to raise general awareness of the phenomenon of 'biopiracy'. Indigenous groups and farmers are also getting together to

has wrongfully usurped an age-old biological process used by millions of farmers in India and other countries for generations. The legal challenge is led by the US group Foundation on Economic Trends led by Jeremy Rifkin, with other key petitioners being the Research Foundation for Science, Technology and Natural Resources Policy (RFSTNRP) and the Karnataka Farmers' Union (both from India), the International Federation of Organic Agriculture Movements (IFOAM), and the Third World Network.

* In Brussels another legal petition was filed in June 1995 at the European Patent Office against a patent it had granted to W R Grace for a method that extracts the neem oil for use in controlling fungi on plants. The three opponents, European Member of Parliament Magda Alvoet, Indian scientists Vandana Shiva of the RFSTNRP, and IFOAM President Hervé Ja Prairie, argue that the patent was wrongly given as the claims for the technique lacked novelty, inventiveness and clarity. The petition argues that the invention is now new as the patented method for extracting neem oil is a standard method used for many decades, whilst the anti-fungi effects of neem oil have been known in India for centuries and thus cannot be considered a 'discovery' as claimed by the company.

* In March 1995, the Swiss Supreme Court, in a landmark decision, ruled that the manzana variety of the camomile plant may not be patented. It revoked the patent that the Swiss patent office had granted in 1988 to the German pharmaceutical company Degussa/Asta Medica on its manzana variety. The case had been brought to court by a Swiss farmer Peter Lendi, president of the Bio-Herb Growers' Association.

Farmers and indigenous people against life patenting

Meanwhile, there have been activities by many different groups, including farmers, indigenous people, parliamentarians, religious leaders, and NGOs opposing the patenting of all life-forms, or living things.

In India, farmers' movements led by M D Nanjundaswamy of the Karnataka Farmers' Union, are campaigning against the patenting of seeds and plants and the operation of foreign grain companies in the country. In 1993, half a million farmers rallied in Bangalore to protest against the implications of the Uruguay Round treaty on intellectual property rights, which opens the door to patenting of genetic materials, seeds and plants.

Indigenous peoples' groups have held regional meetings in South America, Asia and the Pacific, to voice their opposition to the granting of patents to companies on plants and their genes. Also, at the UN Women's Conference in Beijing, 118 indigenous groups from 27 countries signed a declaration demanding 'a stop to the patenting of all life forms' which is 'the ultimate commodification of life which we hold sacred.' They also demanded that the Human Genome Diversity Project be stopped and a rejection of patent applications for human genetic materials.

Parliaments vote against life patents

Parliaments have joined in the fight by opposing proposed laws that would legalise patents on life. In March 1995, India's Upper House of Parliament forced the government to defer indefinitely a patent amendment bill to bring the Indian Patent Act in line with the World Trade Organisation's treaty on intellectual property rights. The bill would have allowed for the patenting of life forms.

Also in March, the European Parliament voted against the European Commission's proposed directive on 'legal protection of

biotechnological inventions'. The directive would have allowed for patenting of biological materials and microbiological processes, with only some restrictions. The European Parliament vote was a major victory for NGOs such as GRAIN and for Green groups in the Parliament that had lobbied on this issue for many years.

Religious leaders and NGOs widen the campaign

In May 1995, leaders of 80 religious faiths and denominations (including the Protestant, Catholic, Muslim, Hindu, Buddhist and Jewish faiths) held a joint press conference in Washington announcing their opposition to the patenting of genetically engineered animals and human genes, cells and organs. 'We believe that humans and animals are creations of God, not humans, and as such should not be patented as human inventions,' they said in a signed statement. The leaders have launched an educational campaign to raise theological concerns over the patenting of life. Religious groups in other countries are also taking up the issue.

Environment and development NGOs have also been increasingly active. Groups like the Third World Network, RAFI and GRAIN have been carrying out educational activities and also carrying out lobbying in the Biodiversity Convention. A coalition of 14 United States groups in May signed a joint statement after a conference at Blue Mountain. 'As part of a world movement to protect our common living heritage, we call upon the world and the US Congress to enact legislation to exclude living organisms and their component parts from the patent system,' says part of the Blue Mountain Declaration.

Crucial global battles ahead

The campaign against life patenting is likely to spread, with more actions taken up by public interest groups at national level, and increased networking among these groups.

At international level, the World Trade Organisation and the Biodiversity Convention are two critical fora for setting principles and legal frameworks on the patenting of biological materials and life forms.

The WTO's trade-related intellectual property rights (TRIPs) agreement will have the most decisive influence over national laws. TRIPs has ambiguous language in its clause on living organisms: patenting of microorganisms is compulsory, plants and animals can be excluded, but protection of one kind or another is required for plant varieties. This clause is up for review after four years, and is already on the agenda of the WTO's trade and environment committee. The outcome of the review process will be of crucial importance.

The Biodiversity Convention is presently more 'friendly', in recognising 'farmers' rights' to their knowledge over the use of biodiversity. The rights of indigenous people are also likely to enter the Convention's future agenda. The treaty's references to intellectual property rights is finely balanced between recognising the need to implement IPRs and the need to ensure that IPRs do not block the sustainable use of biodiversity.

The challenge for those campaigning against life patents is to ensure that the WTO does not make it compulsory for member countries to patent living organisms, and to develop within the Biodiversity Convention the case against biopiracy and concrete measures to counter it.



Threatened

are protesting against the companies being given patent rights, as it is these communities that have been responsible for identifying and evolving the use of the plants for food, medicines and other functions.

The knowledge and use of 'biodiversity' resides with these farmers and indigenous people, which have shared their knowledge and plants freely. Yet through patent applications, the companies are now claiming the exclusive right to produce and sell many 'modified' plants and animals, which have been manipulated to contain selected foreign genes.

Third World communities are concerned that in future they will have to pay high prices for these materials, which in the first place they (more than any other party) had after all developed.

put forward their viewpoints. In recent months, legal challenges have been filed against patents granted on biological products. In a parallel move, new campaigns have been launched by religious leaders and NGOs against the patenting of life.

The following are some of the actions by various groups around the world.

Legal challenges to patents

Some groups have recently filed legal petitions or test cases to challenge patents already granted.

* In Washington in September 1995, more than 200 organisations from 35 countries filed a petition at the US Patent and Trademark Office calling for the revocation of a patent given to W R Grace company to use a pesticide extract from the neem tree. They argue that the company

