

(65)

Biopiracy to Bioprospecting: Assessing the Benefits and Challenges of Ratifying Nagoya Protocol

Wijethunga A.R.L.^{1*}, Dissanayake D.M.S.B.², Pilapitiya A.R.³

¹*United Nations Development Programme, Colombo, Sri Lanka*

²*Institute of Development Studies, Colombo, Sri Lanka*

³*University of Colombo, Colombo 03, Sri Lanka*

**ramitha.wijethunga@undp.org*

Abstract

The distinctive biodiversity of Sri Lanka provides many provisioning, regulating, supporting, and cultural services to the local community and beyond. Further, unsustainable utilization in the biodiversity hotspots will lead to further deterioration of the resources. External parties have obtained patents and intellectual property rights for some Sri Lankan fauna and flora, including some traditionally valued Sri Lankan medicinal plants without the government's consent. This has been identified as a reason that prevents local communities from accessing the benefits of biodiversity. Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits-2014 has been identified internationally as a framework that can be used to address biopiracy-related issues. However, Sri Lanka is not yet a party to the Nagoya Protocol. No comprehensive studies have been carried out to assess the benefits and challenges available for Sri Lanka in ratifying the protocol. The objective of the study was to examine the reasons for not ratifying the Protocol by the Government of Sri Lanka, while most of the countries have ratified and are enjoying the benefits. A desk review was carried out to assess the benefits achievable and policy and institutional gaps in ratifying the Protocol. Structured key informant interviews were held with the officials of the relevant authorities, academics, professionals and environmentalists covering 10 from each category, and 10 community focus group discussions to examine the benefits and challenges in ratifying the Protocol. Sri Lanka does not have any policy or legal barriers to ratifying the Protocol. Reviewed literature on the experiences of other countries revealed that there are clear socio-economic and environmental benefits to the communities and economies by ratifying the Protocol. While experts agreed that biopiracy is currently happening and traditional knowledge systems are being degraded, the key decision makers are of the view that ratifying the protocol may lead to irreversible damage to Sri Lankan biodiversity. Inadequacy of effective quarantine services and limited knowledge of officials were identified as key challenges in combating biopiracy. On the other hand, community groups also have made requests to assert their traditional rights to access biodiversity. In this context, this study proposes to initiate a comprehensive, inclusive and fact-based dialogue over the potential benefits and challenges in ratifying the Protocol that provides greater legal certainty and transparency for both providers and users of genetic resources by establishing more predictable conditions for access to genetic resources and helping to ensure benefit-sharing.

Keywords: Nagoya protocol, Sri Lankan position, Traditional rights and benefits, Bioprospecting, Biopiracy