



**RAFI Geno-Type**  
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## Call to Dialogue or Call to 911?

***Declaration of Athens is DOA at Georgia's International Congress of Ethnobiology. Ten Points on Piracy are offered toward a more constructive discourse.***

The Seventh International Congress of Ethnobiology had a rough ride in Athens, Georgia Oct. 23-27. Overshadowing the proceedings was a painful conflict between ECOSUR, a Chiapas-based public research institute with a proud history in environmental and agricultural work and COMPITCH (the Council of Traditional Doctors and Midwives from Chiapas). Exacerbating the tensions, the Congress' co-hosts lead a University of Georgia (Athens) bioprospecting programme with ECOSUR that is funded by the U.S. Government through its controversial ICBG (International Collaborative Biodiversity Group) Programme. The University and ECOSUR say the initiative (known as ICBG-Maya) serves the best interests of the Mayan people of Chiapas. COMPITCH says its biopiracy. (See RAFI's website at [www.rafi.org](http://www.rafi.org) for more background information.)

***Biopiracy or Bioprospecting?*** Indigenous peoples and ethnobiologists have been in a stew over "bioprospecting" for years. Some communities and academics see bioprospecting as a means to conserve and share endangered indigenous knowledge while making sure that any resulting commercial benefits are shared with indigenous peoples. Others contend that in the absence of effective community, national, and international mechanisms, bioprospecting is just a polite term for biopiracy. The Georgia meeting provided a recipe for how not to manage conflict. Pit an indigenous peoples' organization against a national research institution, add well-known scientists, stir in an international advocacy CSO (RAFI) and a respected University with a historic tradition in bio-exploration, and mix it all in the pressure cooker that is Chiapas. Beyond this, the Congress allowed a level of physical intimidation, verbal abuse, and sexist slurs, the likes of which RAFI has rarely witnessed in 23 years of international advocacy.

COMPITCH wants the project shut down - at least temporarily - for what they call an "active moratorium" during which the diverse communities in Chiapas could be fully consulted. COMPITCH is incensed that ICBG-Maya's efforts to seek "prior informed consent" (PIC) from communities has sometimes ignored traditional processes and, regardless, has failed to divulge the whole story. Further, the Council fears that ICBG-Maya, which has extracted around 6000 samples prior to approval from the Mayans and from the Mexican Government to bio-assay the collection, will conduct the research if permission continues to be denied. In September in fact, authorities in Mexico turned aside ICBG Maya's application. The project's organizers maintain that they are operating well within the rules and the spirit of Mexican law.

***State of Siege?*** As a lead up to the Congress, its co-hosts organized a "State of the Art" symposium on bioprospecting. At its outset, the academics and indigenous leaders invited were told that the plan was for them to adopt a declaration of Athens that would set the standards for best practices and for intellectual property protection related to indigenous knowledge.

No such luck. Pronounced "Dead on Arrival" by indigenous leaders invited to the symposium, the draft text vanished from view. Alejandro Argumedo, a Quechua from Peru and the head of the Indigenous Peoples Biodiversity Network told the symposium that the necessary pre-conditions for bioprospecting and benefit sharing did not exist. "Bioprospecting is like waking up in the night to find robbers in your home with a bag full of your possessions. When you ask them what's going on, they reply, 'don't worry, we have a proposal for benefit-sharing.'"

**Call to Dialogue?** As the formal Congress got underway, the declaration was replaced by tentative proposals for a "Call to Dialogue." Those mooting the call acknowledged that they had a problem in Chiapas and that the prospects for bioprospecting around the world were looking poorly. One of the founders of the Congress began privately suggesting that the term "bioprospecting" was so tarnished that a new name and a new context had to be found. Still others argued that Chiapas could be the "case study" for dialogue and the basis for a new beginning in ethnobiological work. While welcoming the call to dialogue in principle, in its formal panel address, RAFI warned that at this stage in the history of biopiracy a "Call to 911" might be more helpful.

**Prior Informed Consent?** One of the great bones of contention between ICBG-Maya and COMPITCH has been the Mayan's objections to the institutions heavy-handed method of obtaining the necessary "prior informed consent" from Chiapas communities. But the International Society of Ethnobiologists developed PIC problems of its own. At the very end of the closing plenary on Friday - with many of the delegates already long gone - a scientist at the University of Georgia launched a direct attack against the integrity of RAFI even though no one from RAFI was present. The attack was introduced under "new business" and was not on the agenda. Immediately following the attack (the details of which are only sketchy for RAFI at this time) another scientist from a Mexican University read out a letter of support for the leading academics involved in the Chiapas project. A motion was made from the floor that the letter be adopted as a resolution on behalf of the Congress. A vote was called, hands went up, and the Chair declared hastily that the motion had passed. The Plenary session was adjourned amid confusion - and despite some protests.

The Congress adjourned to a "business meeting" of the Society where the letter and resolution to support it were debated again. In a contentious and confusing environment, the resolution was withdrawn and it was decided that the letter would be available for individuals to sign if they wished. The Mexican scientist who first introduced the letter then went from person to person standing in front of every person waiting for each to sign the letter. Democracies haven't permitted public declarations of votes for well over a century but the ISE (International Society of Ethnobiologists) allowed this "vote" within its own proceedings. Many of those still present were students or co-workers of the scientists who were the subjects of the letter. Not a great day for Prior Informed Consent - nor for democracy.

**Where from Nowhere?** The behavior of individuals during the Congress severed, hopefully not irreparably, damage to the call for dialogue. In fact, RAFI came to Athens, to a meeting that was bound to be inhospitable, partly for that purpose. In the brief time allowed for the presentation, RAFI summarized some of the barriers to - and conditions for - equitable bioprospecting. Those points are elaborated upon below.

## **Ten Points on Piracy**

### **Community Conditions:**

1. **No "Wild Kingdoms":** Bioprospectors must assume - unless there is proof otherwise - that all materials they encounter have been nurtured and enhanced by communities. *A large community garden was mistaken for a "natural" forest. Similarly, soils, insects, and fungi first assumed to be unused upon closer scrutiny have been found to have longstanding medicinal or other purposes.*
2. **No Indigenous Monopolies Either:** Bioprospectors must assume in the absence of definitive evidence to the contrary, that the same or similar plants and preparations are used by different communities in the same country and very possibly, by communities in other countries. Agreement must be reached with each community before bioprospectors can consider that they have permission to proceed. *In the early '90s, Shaman Pharmaceutical's "wish book" included plants that averaged use in three different indigenous cultures and often spanned as many as eight countries.*
3. **"No" is an Answer:** Bioprospectors must expect and be prepared to accept "no" as an answer - to understand that there may not be "prior informed consent". The conditions and capacity for "no" should be explicit from the outset. *In recent times, bioprospectors have ended up in jail in Palawan, run out of*

town in the Philippines, and had their boats sunk in Peru. Ethnobiologists should have better ways of understanding "no".

4. **"No" without Normalcy:** If bioprospectors are unable to obtain agreement through traditional community processes and/or are negotiating in an environment where community consultative mechanisms are hampered by civil strife, temporary out-migration, or natural disasters, the conditions for Prior Informed Consent do not exist and they must wait for these conditions to change. *Tragically, indigenous communities face these problems all the time. The reality of Chiapas is replicated around the world.*

#### **External Factors:**

5. **Norms and Operational:** In the absence of clear and effective rules and processes within the community, within the country, and around the world, it is impossible to guarantee the integrity of the terms and conditions established through contractual arrangements and, therefore, all bioprospecting unavoidably risks becoming biopiracy.  
*Just because there's a Biodiversity Convention doesn't mean there's equitable benefit sharing. Indigenous Peoples have been waiting for an effective Article 8J for eight years. There are "Farmers' Rights" at FAO but no agreement on what those rights entail and no capacity to enforce them.*
6. **Slippery Science #1:** Bioprospectors must warn of and monitor against the possibility that indigenous knowledge obtained from one community could allow others to utilize the knowledge while obtaining the biomaterials from *ex situ* botanical gardens, herbaria, zoos, cell libraries, tissue collections, etc. Prospectors must also advise and monitor against the likelihood that biological traits manifested and used in one culture could be extracted from related or unrelated species in other parts of the world. In each case, benefit-sharing possibilities could be contractually avoided. *The commercial medicinal properties of the rosy periwinkle were recognized in Madagascar but the active compounds were synthesized from specimens from Jamaica and the Philippines. Taxol from the Pacific Yew tree can now, thanks to new technical processes, be drawn from the English Yew tree. The gene that confers cold tolerance to an Andean herb might also be identified in an Arctic fish or a temperate pine.*
- 6B. **Slippery Science #2:** Where once a single sample was inadequate for bio-assaying and commercializing products, new techniques are gradually rendering the need for bulk sampling unnecessary. Sometimes only reproductive portions of the species may be required. *New technologies allowed Celera to map the human genome in nine months whereas the old technologies took 15 years. What could be done with a single herbarium sample collected today - over the 10-20 years necessary for investigation and clinical trials? Anyone who would promise that a single specimen will never be sufficient for study over the next decade or two is either a bad scientist or out-of-touch with the pace of technical advancement.*
7. **Changing Corporate Contexts:** Bioprospectors must advise and monitor against the rapid changes in industrial enterprises that could see corporate units, specific contracts or patents, or whole enterprises merge, dissolve or reform several times during the long research and development process that may follow collections. *If you struck a deal with a small national pharmaceutical company ten years ago, it could well have been sold to Astra Pharmaceuticals of Sweden which later merged with Zeneca of the UK to become AstraZeneca which merged some of its operations with Novartis of Switzerland this year to create Syngenta (of everywhere). So, where did your contract end up? If it takes another 5-10 years to commercialize your material, the company you may be talking to could be Microsoft or General Motors.*
8. **Predatory Patents:** Bioprospectors must advise and monitor against frequent changes in intellectual property regimes and regulations over the current (average) 20 year period of patent protection. Since 1980, all the "rules of the game" have changed in intellectual property and practice and those changes could fundamentally affect contractual arrangements with communities. Even agreements "not to patent" could be endangered if some interpretations of biosafety provisions or new biological *de facto* "patents" gain acceptance. It must be remembered that patent monopolies are anathema to most indigenous peoples. *If the community is morally opposed to monopoly, the contract says there will be no patents on the original germplasm, companies might synthesize the active ingredients and patent those instead; or establish a process patent that is equally effective; or trademark their invention so that it is de facto inaccessible to others; or impose Trade Secrecy rules; or envelop the key ingredients in a biological control system such as Terminator that creates a botanical monopoly.*

### **Common Cause:**

9. ***Setting Standards:*** It would be tragic if, given the complexity of conditions necessary for truly equitable bioprospecting, irreplaceable knowledge or biomaterials were lost to the communities or to the world. In a world of "Paradise Lost" it could still be possible, under urgent and unusual conditions, to achieve reasonable agreements and conditions whose integrity can be monitored by the parties to the agreement and assisted by others identified by the parties under prescribed community, national, and international arrangements.
10. ***Changing the Conditions- The Most Important Concern:*** Because both communities and ethnobiologists (among others) welcome the fullest and most open possible exchange of knowledge and material, they must work together to change the socio-economic conditions and political positions that prevent unencumbered cooperation for the benefit of humanity and the earth. It is not an issue of "working with" but of "overcoming" these barriers.

***From 911 to 9-1-Win?*** It is possible to move from the present "911" crisis environment to a more constructive state. RAFI would never suggest that the ten points are sole or central to negotiation but, for the purposes of discussion now, we would suggest that the first nine are manageable detail while the tenth - the need for common cause - is vital. "9-1-win?" It would be wrong to conclude from these ten points that they represent an insurmountable obstacle to cooperative research. The task is just a little harder than ethnobotanists were taught at college. The real prerequisite is that the communities and the gene hunters have to be on the same side.

Considering the problem of multiple-sourcing of innovations (communities, countries, and even continents), it is entirely possible to achieve regional and global "best practices" and sharing arrangements that can allow for initial agreements followed by proscribed research, consortia, and pre-defined amendments to agreements as the discovery process develops. Protocols regarding pre-collected *ex situ* biomaterials can be developed. Botanical gardens are already moving in this direction. Bioprospectors have strong incentives to ensure equitable agreements over past collections in order to safeguard future collections.

Within a community of cooperating ethnobiologists and indigenous peoples, it is also possible to define template protocols and practices - including *ombudsperson* roles - that would facilitate advice and monitoring following collections. Collectively, good allies could have a powerful influence on intergovernmental policies and programmes.

If the basics can be agreed upon then there are grounds for indigenous and other rural communities to sit down with not-for-profit researchers and organizations to sort out their differences and possibilities. A second phase for such a dialogue may or may not involve for-profit enterprises. That remains to be seen.

***Mayan Moratorium:*** Clearly the prerequisite of any dialogue is the "active moratorium" demanded by COMPITCH and other Mexican organizations. Far from a contradiction in terms, COMPITCH's "active moratorium" would create the conditions for consultation and creative dialogue for indigenous and other rural communities and many other concerned social groups as well as for governments and those who wish to prospect. The moratorium timetable must be tuned to the needs of communities - not corporations. But Chiapas is not a case study nor a model nor an experiment. It is as it has always been - both a beacon and a warning bell. While the reality of Chiapas will serve to give us clarity, it is not for negotiation nor for dialogue outside of Chiapas itself.

If the Athens declaration was a failure and the encounter a debacle for bioprospectors, there are other times and opportunities. After all, neither Athens nor Rome was built in a day!

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