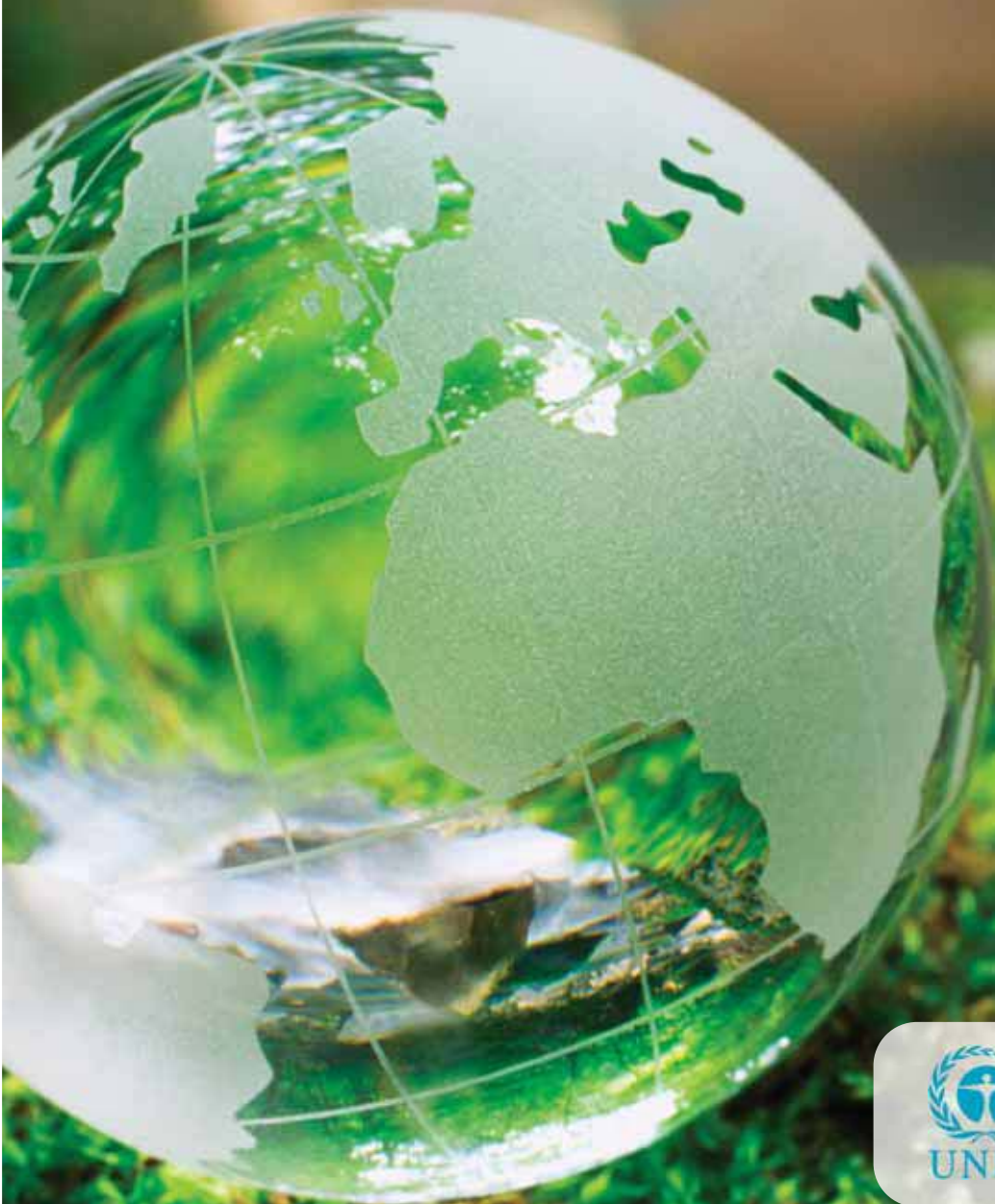


# Ethics, Justice and the Convention on Biological Diversity

Doris Schroeder and Balakrishna Pisupati



## Ethics, Justice and the Convention on Biological Diversity

This report was written by Doris Schroeder and Balakrishna Pisupati

Published: October 2010  
Copyright: United Nations  
Environment Program  
Design: CD Marketing Ltd, UK

Prof. Doris Schroeder, whose background is in philosophy, politics and economics, is Director of the Centre for Professional Ethics at the University of Central Lancashire, UK; Professorial Fellow at the Centre for Applied Philosophy and Public Ethics, University of Melbourne, Australia, and Adjunct Professor of Philosophy at the University of Oslo, Norway.

Dr. Balakrishna Pisupati is Chief of the Biodiversity, Land, Law and Governance Unit, Division for Environmental Law and Conventions, United Nations Environment Programme (UNEP), Nairobi, Kenya.

## Acknowledgements

Thanks to our peer reviewers, Dr. Rachel Wynberg, Timothy Hodges and Roger Chennells whose incisive comments were invaluable. Thanks to Julie Cook Lucas and Dr. Armin Schmidt for excellent comments and editing suggestions on earlier drafts. Thanks to Cathy Lennon for very helpful research assistance funded through the United Nations University. Thanks to the University of Central Lancashire, especially Dr. Bernard Gibbon, and the University of Melbourne for ongoing support. Thanks to Prof. Warwick Fox for his enlightening comments on the Environmental Justice section. Last but not least, thanks from Doris to Andries Steenkamp and Collin Louw for starting her interest in the CBD in the middle of the Kalahari.

The authors have sought to include the most accurate and up-to-date information available. Any errors – factual or presentational – remain those of the authors. All diagrams: Doris Schroeder.

***“If you do not change direction, you may end up where you are heading.”***

Lao-tzu, Chinese philosopher (604 – 531 B.C.)

### United Nations Environment Program and University of Central Lancashire Disclaimer:

The views and opinions presented in this publication are those of the authors and do not necessarily reflect in any way those of the organisations that they represent. While reasonable efforts have been made to ensure that the contents of the publication are factually correct and properly referenced, UNEP and UCLan do not accept responsibility for the accuracy or completeness of the contents, and shall not be liable for any loss or damage that may be occasioned directly or indirectly through the use of, or reliance on, the contents of this publication. The designations employed and the presentation of material in this publication do not imply the expression of any opinion whatsoever on the part of UNEP or UCLan concerning the legal status of any country, territory or city or its authorities, or concerning the delimitation of its frontiers or boundaries.

Copyright © 2010 UNEP  
All Rights Reserved



# Ethics, Justice and the Convention on Biological Diversity

Doris Schroeder and Balakrishna Pisupati

## Contents

	PAGE
<b>Executive Summary</b>	4
<b>I. Introduction</b>	6
The CBD	8
<b>II. Ethics and Justice</b>	10
Justice	13
Justice in Exchange	13
Distributive Justice	15
<b>III. Justice and the CBD</b>	18
Does the CBD Define Justice?	19
A Philosophical Assessment of Justice and the CBD	21
<b>IV. Is Justice Not Relative?</b>	24
Moral Relativism	25
<b>V. Main Challenges to Realising the CBD'S Ethical Goals</b>	28
Prior Informed Consent	29
Agreeing the Process to Achieve the Objectives	32
Compliance	34
<b>VI Conclusions</b>	36
<b>Environmental Justice</b>	38
<b>Endnotes and References</b>	42

## Diagrams, Boxes and Tables

Diagram 1: Three Ethical Frameworks - Rules, Character, Outcome	12
Diagram 2: Moral Principles	12
Diagram 3: Justice and the CBD	21
Diagram 4: Rules and Norms	26
Diagram 5: CBD: Achieving Justice	29
Diagram 6: Approaches to Environmental Ethics	39
Box 1: Equitable Outcomes and Fair Processes	39
Table 1: Poverty and Mega-Diversity	22
Table 2: Main international guidelines on prior informed consent and indigenous communities	30

# Executive Summary

***“Faced with what is right, to leave it undone shows a lack of courage.”***

Confucius, Chinese thinker and philosopher (551 – 479 B.C.)

Today, the Convention on Biological Diversity (CBD) has 193 parties. This "Grand Bargain" is usually interpreted as an instrument of national or regional self-interest. Industrialised nations focused on maintaining the level of biodiversity to protect ecological functions and to secure future use. Developing countries were concerned that a rigid conservation agenda would undermine local solutions to development. The compromise or bargain achieved in Rio de Janeiro lodged sovereignty over genetic resources with national governments, and required users to share benefits with providers. Agreed mechanisms included the obtaining of prior informed consent and the negotiation of mutually agreed terms.

Yet, there is another reading of the CBD. This report takes a philosophical look at the convention. It explains how the concept of justice is omnipresent throughout. On this reading, the CBD is an instrument of collaboration between nations to achieve justice between generations as well as justice between the providers and the users of biological resources. In fact, it is a breakthrough in international politics, which puts common concerns of humankind and their ethical resolution at the forefront of international negotiations.

- *Intergenerational distributive justice* requires that biodiversity is conserved for future generations.

- *International justice in exchange* requires that benefits from the use of genetic resources are shared fairly and equitably.

- *Procedural justice* requires that access to traditional knowledge and genetic resources is subject to formal prior informed consent.

Ethics, as the study of good and evil, goes back thousands of years. Throughout the ages, philosophers have asked what makes a good life for an individual. In all known cultures and in all ethical theories, justice plays an important role. Readers of the full report will be given a crash course in philosophical ethics ranging from an overview of the main ethical theories to the question of whether morality is relative, to subtle distinctions of the concept of justice.

Diagrams and CBD-relevant examples are used throughout. A particular light will be shone on the main challenges, ethically speaking, of realising the spirit of the CBD, namely establishing how best to achieve prior informed consent, agreeing the international regime and achieving compliance.

There is a lot at stake with CBD negotiations. Hopefully, the CBD will deserve its place in history as the main global instrument that prioritises a concern for international justice over national self-interest.

Readers of the full report will be given a crash course in philosophical ethics...





# I. Introduction

***“I do not believe in a fate that falls on men however they act;  
but I do believe in a fate that falls on them unless they act.”***

Buddha, Spiritual teacher from Ancient India (563 – 483 B.C.)





Ethics is one of the buzzwords of the 21st century, and ethical issues have been given more prominence than ever before. Governments around the world are appointing national ethics commissions to advise them on policy matters.<sup>1</sup> Spearheaded by the BBC and its ethics homepage<sup>2</sup>, many established news providers offer dedicated ethics sections and online services<sup>3</sup>. Ethics prizes are given to business professionals to reward integrity<sup>4</sup>, to government officials to reward a commitment to public service<sup>5</sup>, and to journalists to reward ethical conduct<sup>6</sup>.

Yet nowhere can ethics be more powerful than at the global level, providing the foundation for forward-looking, widely supported, international legal frameworks aimed at improving human lives and contributing to sustainable development. The Convention on Biodiversity (CBD) is the main global instrument to date that prioritises a concern for international justice<sup>7</sup>, through its Article on access to genetic resources and benefit sharing (Access and Benefit Sharing (ABS) – Article 15). To date, there are 193 parties to the CBD and with such broad support, the convention represents a breakthrough in international politics, which puts common concerns of humanity and their ethical resolution at the forefront of international negotiations. But what are the ethical foundations of the CBD exactly and how strong are they? These are the main questions of this report.

...nowhere can ethics be more powerful than at the global level, providing the foundation for forward-looking, widely supported, international legal frameworks aimed at improving human lives and contributing to sustainable development.





## The CBD

During the 1970s and 1980s the awareness of biodiversity loss rose dramatically amongst policy-makers and the public,<sup>8</sup> initiated by the 1972 Stockholm Conference on the Environment. More than 300 environmental agreements were signed at the international level between 1972 and 1992<sup>9</sup>, some of which were landmark achievements such as the 1973 CITES Convention governing the trade in endangered species. However, biodiversity loss continued unabated. As a result, the International Union for Conservation of Nature (IUCN) suggested a new, broader and much more ambitious convention to strengthen measures at the international level. This was

预览已结束，完整报告链接和二维码如下：

[https://www.yunbaogao.cn/report/index/report?reportId=5\\_10131](https://www.yunbaogao.cn/report/index/report?reportId=5_10131)

