BENELEX Report Summary
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Final Report Summary - BENELEX (Benefit-sharing for an equitable transition to the green economy - the role of law)

The project has clarified the role and limitations of law in addressing equity issues inherent in tackling global environmental challenges, such as nature conservation, the sustainable use of natural resources, and scientific knowledge of the environment. In particular, it has shown that international law calls for fair and equitable benefit-sharing as a participatory and interactive dialogue to identify and allocate environmental, socio-cultural, and economic benefits arising from conservation, natural resource use, and knowledge production with a view to building a genuine partnership among actors characterized by unequal powers.

This is quite a departure from current benefit-sharing practices that are often perceived as inadequate, top-down or exploitative. The project therefore shows that concrete demands for more equitable approaches to benefit-sharing find specific responses in international law. In relations among developed and developing states, fair and equitable benefit-sharing calls for multilateral institutions to proactively broker and facilitate integrated approaches to scientific cooperation, information-sharing, capacity building and technology transfer, as well as a multilateral assessment of gaps, obstacles, risks and effectiveness. In relations between governments, private companies and indigenous peoples or local communities, fair and equitable benefit-sharing calls for considering benefits according to the worldviews of indigenous peoples or local communities in the early phases of environmental assessments, with community participation and the use of their methodologies, in order for them to effectively provide free, prior informed consent. This entails moving away from an approach focused exclusively on avoiding damage, and rather opening up pre-set development options with a view not only to protecting but also fully realizing the human rights of indigenous peoples and local communities. These findings are based on a combined reading of international biodiversity law (which provides concrete steps on how to put these precepts in practice) and international human rights law (which provides limits to the discretion of States in the exercise of their sovereignty over natural resources). These findings are relevant for other areas of international law, such as international law of the sea, international health law and international investment law.

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