



CBD bush meat meeting at Nairobi Kenya, 7<sup>th</sup> June 2011

UNEP Office, Gigiri Center.

# Indigenous Peoples of Asia and Biological Diversity linking with the Bush Meat Issues.

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# General Facts on Indigenous Peoples and Biodiversity

- Fifty million of the 370 million global population of indigenous peoples live in tropical forests. Indigenous peoples comprise less than 4% of the population of the world but constitute 95% of the cultural diversity, and over 50% of the population in areas of high biodiversity. In Russia, indigenous peoples occupy 60% of the total land area.
- Indigenous peoples speak 4,000 – 5,000 of the world's 6,000 languages. Half of all languages are spoken by communities of less than 10,000 speakers or less (and half of these with 1,000 speakers or less.) The loss of each distinctive culture represents the collective loss for human-kind of possible options and possible opportunities for innovation in responding to collective challenges.



# Indigenous Peoples of Asia

- Indigenous people are found in varying numbers in most countries of Asia and the Pacific; throughout the region they have much in common. Most indigenous communities have a basic kinship through their histories, where customs and traditions are defined by virtue of centuries-old relations with land, forests, rivers and society. The problems confronting these communities are also similar in nature. Eviction from ancestral land, disruption of age-old customs and traditions and the onslaught of development are threatening the very right of these people to a peaceful existence.



# Fundamental Rights of Indigenous Peoples

- The UNDRIP is an international *human rights* instrument that sets the minimum standards for guaranteeing the *collective rights* that have long been exercised by indigenous peoples. It is *not* a *new set of rights granted by states*; rather, it is a *recognition of inherent obligations* of states to respect those rights.
- Among the basic rights of indigenous peoples contained in the UNDRIP that should be recognized are the following:
  - The right to self-determination;
  - The recognition of indigenous peoples as collectivities;
  - Inalienable rights to territories, lands and resources;
  - Prior consent before development takes place on indigenous lands;
  - Control over any development initiatives on indigenous lands;
  - Respect for indigenous cultural heritage and intellectual property;



# Critical Principles for Indigenous Knowledge and the Use of Biodiversity:


- Indigenous peoples live in territories. This means that indigenous peoples and their communities are responsible for the control and use of the total environment: soil, sub-soil, trees and plants, animals and birds. All the resources of an area are included—and, shores, lakes, rivers, islands and sea areas.
- Indigenous territories are considered to be inalienable. They are owned by a people as a whole and are passed from ancestors to descendants as part of its heritage. Neither indigenous nor non-indigenous people have the right to sell or dispose of indigenous territories.
- Indigenous peoples have their own concept of ownership for their territories. Their re-areas for their needs, within the framework of the territory as a whole.
- Territories are part of a holistic vision of the universe, including political control over resource use; spiritual reverence for the invisible religious aspects of forest life; and a perception of the forest as landscape fashioned by history of indigenous activity.





# Indigenous peoples and CBD

- Although the phrase “over their own biological resources” appears referring to states, it could be argued that “their” refers strictly to state lands and not to areas where resources are owned by indigenous peoples. Many states classify indigenous territories as “public lands.” This statement should not imply the dispossession of indigenous territories and resources.
- Where the Convention refers to the sovereign rights of states, it should be made clear that this does not refer to the right of any government to alienate indigenous lands or change the law of land ownership unilaterally. As peoples living within the boundaries of states, indigenous peoples should have the rights to control their resources.
- Article 22 says that the Convention “will not affect rights and obligations of Contracting Party deriving from any existing international agreement.” The rights of indigenous peoples, as they stand in the UN Declaration on the Rights of Indigenous Peoples, are minimum standards of indigenous peoples’ rights and they should not on any circumstances be undermined.



# ***Indigenous and local communities embodying traditional lifestyles***

- An indigenous community is distinct from a local community (for example of peasant farmers) and foremost, a part of an indigenous people. The term “community” should refer to, and not undermine, the term “indigenous peoples.” The most logical solution would be to clarify the convention with a reference to ‘indigenous’ peoples and local communities.”
- The term “traditional” should not be used to reinforce notions of changeless peoples. The importance of indigenous peoples’ contribution to innovative activity is well-documented.
- terms such as “traditional”—in a dynamic manner which looks at processes of continuity rather than content. The term “customary” would be a useful orientation to clarify the meaning of traditional in this context.
- Indigenous peoples are in a strong position to ensure that no programmes or policies have adverse impact on biodiversity. When states encounter dangers to biodiversity, they are obliged to notify other states—the people living in the state should be informed too. Provisions should be established by the COP so that indigenous peoples can report on the state of biodiversity in their own territories.
- There is a need to ensure that indigenous peoples are recognized fully as the owners and managers in protected areas on their territories, in situ conservation takes place under indigenous control and with indigenous consent, and that indigenous peoples and organizations are included in any decision which will affect them.



# Some of the struggles of IPs within CBD

- ***Indigenous and Local Communities***
- The phrase “indigenous and local communities embodying traditional life styles” has made recognition of indigenous rights unnecessarily complicated because *it ignores existence as peoples*.
- The concept of “traditional” (embodying traditional lifestyles) is highly problematic. It gives the impression that Article 8(j) only applies to indigenous peoples who are isolated and fossilized in some cultural time-warp living in a never changing present
- ***Indigenous Peoples and Protected Areas***
- Indigenous peoples are opposed to the use of protected areas that deprive them of their lands and rights to resources.
- The concern for indigenous peoples is that conservation NGOs, multilateral development institutions and states will identify reserved areas without taking into consideration the presence of the inhabitants living there, most of whom are usually indigenous.





# Tbc.....

- ***Access to Resources***
- “Ex-situ conservation in the country of origin” could be used by national institutions to take indigenous genetic resources in the “national interest” and develop them on the basis that they are threatened. Compensation would then not be necessary.
- Indigenous rights are ignored when northern countries receive access to resources in return for recognizing the South’s rights over the resources.
- The reference to intellectual property rights, raised in Article 8(j) and later in the Convention, is limited when it is in the context of state sovereignty.




# Tbc.....

- **General Concerns**
- The Convention fails to incorporate the advances made in other sections of the UN, particularly in the Human Rights Council (HRC), the UN Declaration on the Rights on Indigenous Peoples and the UN Permanent Forum on Indigenous Issues (UNPFII).
- The CBD increases the power of states to control lands and resources, promotes further developments of protected areas, promotes and facilitates agreements between states and bio-prospecting companies to gain access to the genetic resources in indigenous territories



# Indigenous Peoples' Concerns on the Convention on Biological Diversity

- Outlines of national legislation could be prepared by the Secretariat on the basis of a process of consultation with indigenous peoples. A discussion of sui generis rights will arise in this context. If indigenous peoples are to support this approach, it is essential that sui generis laws protect indigenous peoples' rights, and do not simply provide state governments with opportunities to plunder indigenous peoples' resources.
- Participation of indigenous peoples in the CBD should be through a full and meaningful process. The Parties should not necessarily try to solve the questions of indigenous peoples and the Convention immediately. They should work out a process where agreements can be reached through a just and constructive set of arrangements. Support is urgently needed to help indigenous peoples carry out their own process of mutual consultation of rights, knowledge and biodiversity.
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# Elephants, rhinos and tigers butchered - The end of the world is nigh?

- 6 tigers in Nepal's Chitwan National Park and 6 rhinos in northern India and Nepal and an investigation in a market in Thailand discovered highly endangered species of tortoises and turtles openly being sold.
- The psyche of treating wildlife as a commodity is by no means new, but as the world population grows by some 250,000 people PER DAY, and the general wealth of the world expands rapidly too, the pressure on land and the environment will become untenable. The poaching I mentioned above are just a few small, but iconic, incidents that have all happened recently, but they are a symptom of a greater malaise. We have now reached the point where we can no longer just treat wildlife as a commodity, or in fact, ignore it altogether.

# How Poverty Links with the Illegal Killing of Rhinos in Nepal.

if you are a poor villager in Nepal with 10 children to feed, and someone offers you a year's wages to help kill a tiger or rhino, it is not a hard choice. There will always be an impoverished few locals who, understandably, are prepared to take the risk of being caught. The odd middle man gets caught too, but the big criminals, often international organised crime gangs, rarely get caught or punished. And to be realistic, if they do get caught, another will step into replace them. If there is demand, there will always be a crime gang happy to fulfil that demand, and a few impoverished villagers willing to take the risk.







## Way Forward.....

- Alternative for the livelihoods
- Awareness program
- Socio Economic empowerment program focusing on indigenous peoples.
- Ensure PIF ( Prior Informed Consent) with indigenous peoples before applying any rules and regulations.
- Ensure Representation of Indigenous Peoples in Decision Making level related with Environmental issues.



## Tbc.....

- Follow the UNDRIP and ILO-169 guidelines before applying any laws and regulations.
- Consultation and Participation of indigenous peoples needs to be encouraged through special mechanism.