

The Convention on Biological Diversity:

An Imperative for Indigenous Participation

The Biodiversity Convention, one of the world's most important pieces of environmental legislation, will be finalized at the end of this year. Whether it will provide tools to defend Indigenous bio-cultural resources remains unclear.

By Alejandro Argumedo

At the 1992 U.N. "Earth Summit" in Rio de Janeiro, over 150 governments signed the International Convention on Biological Diversity (Biodiversity Convention), which, came into force last December after the required ratification by more than thirty national legislatures. After two-and-a-half years of negotiations, the Conference of Parties (COP) which was established as the Convention's governing body will meet for the first time from Nov. 28 to Dec. 9 in the Bahamas to further define the treaty's implementation. The Convention has yet to establish the scope and nature of Indigenous peoples' rights to their bio-cultural resources. Thus, this meeting will either help ascertain native rights, or function as yet another international mechanism to legitimate the theft of Indian resources.

The Convention is the first global agreement committing signatory nations to comprehensive protection of Mother Earth's biological gifts. Provisions stipulating specific commitment towards achieving this goal are covered in forty-two legally-binding articles. This legal instrument addresses issues of tremendous significance for the world's Indigenous peoples.

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Biodiversity and Indigenous Land

Up to the nineteenth century, Indigenous peoples exercised de facto control over most of the world's ecosystems. Today, only an estimated 12-19% of the earth's land area is home to the four to five thousand Indigenous nations of the world. Even diminished to a mere fragment of what they were, our homelands constitute an important portion of the globe's relatively intact ecosystems, and shelter an even larger share of its biological diversity. It is no coincidence that the habitats richest in natural diversity are usually home to Indigenous people as well. By some estimates, Indigenous homelands shelter more endangered plant and animal species than all the world's "nature reserves" combined.

Through millennia we have depended on the diversity of life around us; uncovering its secrets, and learning how to increase these riches, for example, when we create new genetic diversity within a species. We possess a knowledge that is not only innovative and cognizant of ecological processes and uses of biodiversity, but also uniquely holistic for its spiritual and ethical components. That is why the conservation of all components of biodiversity—genetic, species and ecosystems—is crucial for our survival as cultures of the land. For Indigenous peoples biodiversity means just that: the land. The recognition of inherent rights to our tra-

ditional territories is the foundation both for our survival as peoples and for the conservation and sustainable use of biodiversity and its components. In this context the Biodiversity Convention could provide an important mechanism to protect Indigenous Peoples' rights over biological resources.

The Convention: a Significant but Flawed Tool

Disturbingly, there has been little participation by Indigenous people in developing the Convention. As usual, we have been viewed as the objects (another endangered species) rather than subjects of the process. Most Indigenous people know little, if anything, about the Convention. However, the treaty does recognize our contributions to biodiversity conservation. In addition, appreciation of our "use of the medicinal, agricultural, and other useful properties of endemic flora and fauna" is increasing.

Nonetheless, parties to the Convention are now meeting behind closed doors to determine what rights we will have over our knowledge, innovations and practices, for which we currently lack any legal instruments of protection. Bio-cultural pirates are currently plundering these resources without prior informed consent of Indigenous communities and organizations. Free access for free value is the common practice. For the first time,

provisions of the Biodiversity Convention may offer opportunities to effectively protect rights to biocultural resources.

With the increasing focus on Indigenous territories as reserves of genetic diversity for use in the food, agriculture, pharmaceutical, biotechnology and other industries, Indigenous peoples' presence in the Convention's development is crucial. The Indigenous Peoples' Biodiversity Network (IPBN), a global coalition of Indigenous peoples' organizations formed to protect biocultural resources, has been lobbying for Indigenous peoples' rights within the Convention. In order to promote greater Indigenous influence within the treaty, the IPBN, SAIC and the Abya Yala Fund, an Indigenous foundation that supports Indigenous-based sustainable development in the Latin America, are jointly working to facilitate increased participation of Indigenous peoples from South and Meso America. We need to monitor, analyze, and seek greater transparency and accountability from all parties, in addition to promoting policies that protect our local rights and interests.

The Convention's value lies in the commitment of signatory nations to work for a common cause. It also supports national sovereignty and each country's right to benefit from its own biological resources. It further specifies that each country should have access rights to new technologies, including new biotechnologies, which could assist in conservation efforts or prove useful in the exploitation of biological resources.

The Convention does not recognize Indigenous peoples' rights over their traditional territories and resources. But it does recognize the importance of our cultures' survival to the conservation and sustainable use of biodiversity. It also recognizes that first nations should share in the benefits derived from their knowledge and innovations. Unfortunately, the Convention's provisions leave it up to national governments to decide the scope and nature of Indigenous peoples' rights. Currently, few colonial nation-states recog-



Photo: Alfonso Jaramillo

Potato crop diversity developed alongside Andean cultures in the Altiplano region, where hundreds of varieties can be found in local markets.

nize Indigenous land rights or rights to customary practices on the land (biodiversity). Inserting these adequately into the treaty is a serious challenge for the signatory members of the Convention, and will be a tough fight for the Indigenous peoples working within the process. The Convention's existing mandates can be grouped into several broad categories, these are briefly summarized below.

National Action Plans and Environmental Impact Assessments

One of the Convention's central mandates is to ensure adequate planning and decision-making to protect biodiversity at the national level. Each country will be required to formulate a national action plan for biodiversity protection. Indigenous organizations should participate in designing these plans because new policies will affect their communities the most. Implementation of these plans, is of course, another matter, and Indigenous organizations will have to monitor this process as well. Secondly for all individual projects "likely to have significant adverse impacts on [biodiversity]" governments will be required to develop

Environmental Impact Assessments. This Article may provide Indigenous peoples with a forum—which they have often been lacking—for voicing opposition to senseless "mega-development" projects that affect their human and territorial rights, such as the construction of hydroelectric dams, highways, tourist resorts, mining, oil exploration and exploitation, and logging.

Protection

In terms of concrete protective measures, the Convention has three requirements: control sources of significant injury to biodiversity, establish systems of protected natural areas, develop and implement policies for in situ conservation. Indigenous participation is critical both in designing protected areas and in managing them. First, because Indigenous communities often have extensive knowledge regarding the landscapes at stake. Second to ensure that these actions are complimentary and compatible with pre-existing Indigenous land rights, rather than—as we have seen in some previous cases—an attempt to circumvent them.

The Convention specifically recommends the application of traditional knowledge and conservation practices. This is a very valuable recognition of Indigenous practices, Indigenous organizations will have to be proactive in the implementation, financing and monitoring of these measures.

Research and Indian Lands

In addition to protecting biodiversity, the Convention is supposed to promote sustainable use of biological resources through government/private sector cooperation. In the past, such bilateral cooperation has nearly always sidestepped Indigenous participation (e.g. "Texaco & Ecuadorian Government Settlement" on pg. 4, eds.) The Convention continues to favor bilateral rather than multilateral agreements. Multilateral agreements are more favorable for Indigenous organizations; these are more transparent and involve a range of concerned sectors who can act as our allies, support our rights, and help to monitor the agreement. Indigenous peoples' organizations should consider multilateral agreements for decisions affecting biodiversity in their territories.

Identification and Monitoring of Priorities and Problems

Parties to the Convention are required to identify priority ecosystems, species, and genomes for conservation and sustainable use of biodiversity. These priority areas will largely be congruent with Indigenous territories, and Indigenous communities could benefit from research activities that help to ascertain territorial rights (e.g. ecosystem research). Since the Convention recognizes the merits of Indigenous knowledge in relation to biodiversity, Indigenous peoples should participate in this research as equals with Western researchers.

In addition to biodiversity identification, parties are required to monitor the status of their country's biodiversity resources. Here, in particular, Indigenous knowledge has a critical role. In many instances, Indigenous knowledge can provide more

reliable biodiversity indicators than science. Monitoring the status of ecosystem and species can be done by Indigenous peoples along with scientists if the integrity, and rights to our knowledge is respected and protected.

At the same time, parties to the Convention are supposed to identify and monitor activities that are likely to have significant adverse impacts on biodiversity. In

al action plan should include the following economic activities in their list of harmful processes requiring monitoring and mitigation: mining, oil exploration, agribusiness, commercial logging and cattle ranching.

Financing

The Convention mandates the industrialized countries to provide developing countries with new and additional funds to meet its implementation costs. The Global Environmental Facility (GEF) was chosen as the Convention's interim financing mechanism. The parties will select the permanent mechanism at this meeting in Nov. and Dec.

Institutional Structure And Intergovernmental process

At the international level, parties to the Convention will meet regularly in a Conference of the Parties (COP). A Secretariat will provide administrative services. An interim Secretariat has been established in Geneva, Switzerland. In addition, a scientific and technological advisory committee will give technical assistance to the COP. At the COP, parties will report on compliance and consider measures for strengthening the treaty. They will also address, among other issues: a) administering the financing of arrangements under the treaty; b) setting up a clearinghouse of information on technology transfer and other areas; c) establishing cooperative partnerships on research, information sharing, and technology transfer. ♻️



Photo: David Tecklin

Chimane farmer shows just one of the several hundred different domesticated and semi-domesticated plant species he cultivates—a local variety of peanuts.

many countries Indigenous organizations are the first to identify and denounce large-scale environmental impacts (see for example Vol. 8:1&2, Oil exploration in Peru, eds.). Parties should provide Indigenous groups with resources for in-depth and continuous monitoring of harmful activities in their regions. In addition, every nation-

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