

40th anniversary of the World Heritage Convention

International Expert Workshop on the World Heritage Convention and Indigenous Peoples

20-21 September 2012 – Copenhagen, Denmark

Report



NAALAKKERSUISUT
GOVERNMENT OF GREENLAND



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**INTERNATIONAL EXPERT WORKSHOP
ON THE WORLD HERITAGE CONVENTION
AND INDIGENOUS PEOPLES**

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IWGIA – KULTURSTYRELSEN – NAALAKKERSUISUT

2013

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FOREWORD

In 2012, UNESCO and the States Parties to the World Heritage Convention celebrated the Convention's 40th anniversary through a series of activities, events and thematic workshops around the world, the outcomes of which are meant to "feed the reflection on the future of the Convention". The theme of the anniversary was "World Heritage and Sustainable Development: the Role of Local Communities", and it was intended to provide a framework for focusing on "issues pertaining to the well-being and responsibilities of local communities". More generally, the celebration of the anniversary was seen as "an opportunity for the international community involved in cultural and natural heritage conservation to reflect on the achievements of the Convention to date as well as to take stock of the challenges with which it is confronted".¹

States Parties were encouraged by the World Heritage Committee to "develop, support and carry out activities to promote the anniversary and to... mobilize various UNESCO related institutions, programmes and networks to join in celebrating the anniversary".² The Danish Agency for Culture, together with the Government of Greenland and the International Work Group for Indigenous Affairs (IWGIA), took up this invitation by hosting an International Expert Workshop on the World Heritage Convention and Indigenous Peoples, which took place on 20-21 September 2012 in Copenhagen, Denmark. Involving Indigenous experts and representatives, human rights experts and actors in the World Heritage system, the workshop was organized under the theme of "How to ensure that the implementation of the World Heritage Convention is consistent with the UN Declaration on the Rights of Indigenous Peoples" and the aim was to enable a constructive dialogue with a view to making appropriate recommendations to the World Heritage Committee, such as possible changes to the current procedures and Operational Guidelines.

Funding for the expert workshop was provided by the Danish Agency for Culture, IWGIA, the Christensen Fund and the Greenland Government. The organizers would also like to acknowledge those who paid the expenses of their own participation in the workshop, or supported the participation

of Indigenous experts through smaller contributions. Additionally, we are grateful to Ida Nicolaisen for her support and contribution to the organization of the workshop and to the Forest Peoples Programme for their invaluable advice and support.

One of the main motivations behind organizing the expert workshop was the fact that, in Decision 35 COM 12D, the World Heritage Committee had specifically noted that considerations related to Indigenous peoples, and in particular questions raised by the United Nations Permanent Forum on Indigenous Issues, "should be included in the theme of the 40th Anniversary". Moreover, UNESCO had underlined in a statement at the Permanent Forum in May 2011 that the 40th anniversary would "provide an excellent opportunity for indigenous peoples to engage with UNESCO and the Committee and its Secretariat, in order to address concerns that have been raised within the framework of the Permanent Forum and to work towards a constructive solution to the challenges that the United Nations Declaration on the Rights of Indigenous Peoples brings to the international community as a whole."³

Adopted in 2007, the United Nations Declaration on the Rights of Indigenous Peoples is the most comprehensive universal international human rights instrument explicitly addressing the rights of Indigenous peoples. It sets out "the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world" (Art. 43) and constitutes a major step towards addressing the persistent human rights violations against Indigenous peoples worldwide. According to Article 43 of the Declaration, "the United Nations, its bodies... and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration."

On the occasion of the Declaration's adoption, UNESCO's Director-General, Koïchiro Matsuura, issued the following message:

¹ "Progress report on the preparation of the 40th Anniversary", Doc. WHC-10/35.COM/12D, 27 May 2011.

² Decision 35 COM 12D: Celebration of the 40th Anniversary (2011).

³ See <http://www.docip.org/gsd/collect/cendocdo/index/assoc/HASHbfc/9a7a182d.dir/PF11douglas071.pdf>.

“UNESCO welcomes the General Assembly’s approval of the United Nations Declaration on the Rights of Indigenous Peoples as a milestone for indigenous peoples and all those who are committed to the protection and promotion of cultural diversity and intercultural dialogue. The Declaration acknowledges the significant place that indigenous cultures occupy in the world’s cultural landscape and their vital contribution to our rich cultural diversity, which constitutes, as the text’s preamble reminds us, ‘the common heritage of humankind’... The adoption of the text sends out a clear message to the international community regarding the rights of indigenous peoples. It is henceforth the responsibility of the United Nations, and notably UNESCO in its capacity as a specialized agency for culture, science, education and communication, to ensure that this message is widely disseminated and well understood... [T]he Declaration will undoubtedly provide the foremost reference point in designing and implementing programmes with and for indigenous peoples.”

The UNESCO Director-General also remarked, in a message on the International Day of the World’s Indigenous People in 2008:

“[T]he new Declaration echoes the principles of the UNESCO Universal Declaration on Cultural Diversity (2001) and related Conventions – notably the 1972 World Heritage Convention, the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Each of these recognizes the pivotal role of indigenous peoples as custodians of cultural diversity and biodiversity.”

However, at least in the case of the World Heritage Convention, these remarks largely reflect aspirations rather than an operational reality. Since the adoption of the UN Declaration, there have been repeated complaints by Indigenous peoples and human rights organizations about violations of Indigenous rights in the implementation of the World Heritage Convention, not only at the national/World Heritage Site level but also at the international/Convention level. These numerous violations, which are in many ways the result of the inadequacy of the Convention’s procedures and Operational Guidelines,

have drawn the attention of international human rights bodies and mechanisms and are clearly damaging the reputation of UNESCO as an institution committed to furthering respect for human rights, cultural pluralism and intercultural understanding. They threaten to overshadow the positive role that the World Heritage Convention can play and, in many cases, undoubtedly has played for Indigenous peoples by helping them protect their lands, cultures and heritage.

Due to the many concerns raised by Indigenous peoples in relation to World Heritage sites, *all three of the UN mechanisms specific to Indigenous peoples* (UN Permanent Forum on Indigenous Issues, UN Expert Mechanism on the Rights of Indigenous Peoples and UN Special Rapporteur on the Rights of Indigenous Peoples) have called on the World Heritage Committee, UNESCO and the Advisory Bodies to take corrective action. The Permanent Forum on Indigenous Issues has encouraged the Committee to revise the Convention’s procedures and Operational Guidelines in order to ensure that the rights of Indigenous peoples are respected and that their livelihoods and their tangible and intangible heritage are protected in World Heritage areas. It has also called for the establishment of an appropriate mechanism whereby indigenous experts can provide advice to the World Heritage Committee and the World Heritage Centre. The Forum has expressed its availability to assist in the review and revision of the Operational Guidelines and has recommended that UNESCO invite Indigenous representatives and experts to contribute to the deliberations and recommend changes.

Similarly, the UN Human Rights Council’s Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) has encouraged the World Heritage Committee “to elaborate, with the full and effective participation of indigenous peoples, changes to the current procedures and operational guidelines and other appropriate measures to ensure that the implementation of the World Heritage Convention is consistent with the United Nations Declaration on the Rights of Indigenous Peoples and that indigenous peoples can effectively participate in the World Heritage Convention’s decision-making processes”.⁴ Similar recommendations have been made by the African

⁴ EMRIP, Report on the fifth session (2012), Doc. A/HRC/21/52, p. 7 (Proposal 9: World Heritage Committee).

Commission on Human and Peoples' Rights (ACHPR) and the 2012 World Conservation Congress. Last but not least, in 2012 the UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, devoted a whole section of his annual report to the UN General Assembly to the "recurring issue" of World Heritage sites impacting Indigenous peoples, citing the concerns expressed by Indigenous peoples "over their lack of participation in the nomination, declaration and management of World Heritage sites, as well as concerns about the negative impact these sites have had on their substantive rights, especially their rights to lands and resources."⁵

The recommendations of the mentioned bodies and mechanisms provided an important backdrop and reference point for the discussions at the expert workshop in Copenhagen.⁶ The expert workshop was attended by Indigenous experts and representatives from all continents, including from several World Heritage areas, human rights experts, representatives of the UN Permanent Forum on Indigenous Issues, EMRIP, the ACHPR Working Group on Indigenous Populations/Communities, UNESCO, the World Heritage Centre, IUCN, ICOMOS, the African World Heritage Fund, and the Nordic World Heritage Foundation, among others. Building on the recommendations of the Permanent Forum, EMRIP and others, the workshop participants produced a Call to Action containing recommendations to the World Heritage Committee, UNESCO and States on how to align the implementation of the World Heritage Convention with the principles and requirements of the UN Declaration on the Rights of Indigenous

Peoples. Workshop participants also produced a set of proposed amendments to the Convention's Operational Guidelines aimed at ensuring that Indigenous peoples' free, prior and informed consent is obtained when parts of their lands or territories are identified, nominated or inscribed as World Heritage sites or when their lives, rights or resources are otherwise affected by such processes.

The outcome documents of the expert workshop were presented to UNESCO during the Closing Event of the 40th Anniversary in Kyoto, Japan (6-8 November 2012) and are available at <http://whc.unesco.org/en/events/906/>. As agreed during the workshop, they will be formally submitted to the World Heritage Committee's 37th Session in Phnom Penh, Cambodia, as well as to the various UN mechanisms dealing with Indigenous peoples' issues and other human rights bodies. They are also meant to feed into the World Conference on Indigenous Peoples to be held in September 2014 at United Nations Headquarters in New York, the main objective of which is to share perspectives and best practices on the realization of the rights of Indigenous peoples and to pursue the objectives of the UN Declaration on the Rights of Indigenous Peoples.

We hope that the recommendations from the expert workshop, as well as this report, will be useful tools for constructively addressing the issues raised by Indigenous peoples in relation to World Heritage sites incorporating or affecting their lands, territories or resources, and thereby also contribute to protecting and enhancing the credibility of the World Heritage Convention. As UNESCO's Director-General Irina Bokova remarked during the Closing Event of the 40th Anniversary in Kyoto, local communities and Indigenous peoples "stand at the heart of world heritage... We must design new policies to empower and involve them – not as spectators but leading actors in the protection of the heritage". ○

5 UN Doc. A/67/301, 13 August 2012, paras. 33-42.

6 For a compilation of relevant recommendations by UN mechanisms and human rights bodies, see Annex 1 of the expert workshop's Call to Action. The complete Call to Action, including all Annexes, is available at http://www.iwgia.org/news/search-news?news_id=678 and <http://whc.unesco.org/en/events/906/>.

WELCOME ADDRESSES

Ms Anne Mette Rahbæk Warburg, Director General of the Danish Agency for Culture, welcomed participants to the expert workshop and conveyed the best wishes of the Danish Minister of Culture, Mr Uffe Elbæk. She explained that the expert workshop was a part of the Danish contribution to the 40th anniversary of the World Heritage Convention and was developed in close collaboration with the International Work Group for Indigenous Affairs (IWGIA) and the Government of Greenland. She thanked Ms Ida Nicolaisen, former expert member of the UN Permanent Forum on Indigenous Issues, for bringing the three parties together.

Ms Rahbæk Warburg said that the focus on Indigenous peoples had been high on the Danish agenda for years and that, in the context of World Heritage, local participation was one of Denmark's primary focus areas. "In line with the overall theme for the 40th anniversary celebration, including both sustainable development and the role of local communities, we try to set new standards for the involvement of local people in World Heritage work."

"Both the World Heritage Committee and UNESCO have emphasized that questions related to Indigenous peoples should be discussed in the context of the 40th anniversary and that the anniversary provides an opportunity to address concerns that have been raised within the framework of the Permanent Forum on Indigenous Issues and to work towards constructive solutions," Ms Rahbæk Warburg noted. She quoted Irena Bokova, the Director-General of UNESCO, who stated the following on International Day of the World's Indigenous People 2012: "At a time when debate has opened on the contours of a new global sustainability agenda, the voices of indigenous peoples must be heard. Their rights, cultures and the knowledge systems must be taken into account."

The overall objective of the expert workshop, Ms Rahbæk Warburg said, "is to reflect on constructive solutions to the various challenges facing Indigenous peoples in relation to World Heritage and to identify concrete and practical results and solutions. When the results are presented at the final event of the 40th anniversary in Kyoto later this year, this will provide us with a strong mandate and argument for even intensifying our common efforts."



Anne Mette Rahbæk Warburg, Danish Agency for Culture

Ms Tove Søvndahl Pedersen, Head of Greenland's Representation in Copenhagen, welcomed the participants on behalf of the Greenland Government. She explained that the Greenlandic population was primarily Indigenous and talked briefly about the value that the Greenlandic people attach to their natural environment and to their cultural sites. She said that the workshop was meant to "bring together diverse experiences of World Heritage sites, experiences of how or whether Indigenous peoples were included when those sites were being nominated, what is going on when they are already on the World Heritage List, how they are managed, and whether they are managed in cooperation with Indigenous peoples



Tove Søvndahl Pedersen, Greenland Representation in Copenhagen

and in respect of Indigenous peoples' rights". She expressed the hope that participants would "learn from each other and also come up with recommendations that will take us forward in the implementation of the rights of Indigenous peoples".

The third and final welcome speech was by **Ms Lola García-Alix**, Director of the International Work Group for Indigenous Affairs. Ms García-Alix explained that IWGIA's mission as an organization was to support Indigenous peoples' struggle for human rights, self-determination, right to territory, control of land and resources, cultural integrity and right to development. Since the adoption of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007, one of the main focuses of IWGIA's work had been on promoting the UN Declaration and working for its practical implementation by States and international agencies. She said that IWGIA placed a special focus on the World Heritage Convention because of "the well-documented complaints that we have received from Indigenous organizations from all over the world regarding the continued disrespect for Indigenous rights in World Heritage sites".

Ms García-Alix further explained that IWGIA was working together with the Forest Peoples Programme on the production of a book on "Indigenous peoples and World Heritage sites", to be published in early 2013, and that many of the workshop participants were contributing articles to this book. The book would contain case studies on World Heritage sites all over the world in order "to analyze and document Indigenous peoples' experiences with World Heritage sites in their territories – including both positive, less positive, and negative examples". Ms García-Alix said that it was important to note "that while there are many problems and challenges, the World Heritage Convention can obviously play, and in some



Lola García-Alix, IWGIA

cases has played, a positive role in ensuring and supporting the continued preservation of Indigenous peoples' lands and territories, as some of the case studies that will be presented at this seminar will also show us".

Elaborating on the objectives of the expert workshop, Ms García-Alix said that the main objective was to ensure that the voice of Indigenous peoples was not absent from the celebrations of the 40th anniversary and that Indigenous peoples were not overlooked during the anniversary. "We hope that the expert workshop will enable a constructive dialogue on the issues raised by Indigenous peoples," she said, "with a view to making recommendations to the World Heritage Committee on how to ensure that the implementation of the World Heritage Convention is consistent with the UN Declaration on the Rights of Indigenous Peoples." The outcome document resulting from the workshop would be formally presented at the final event of the 40th anniversary in Kyoto, Japan, Ms García-Alix explained. ○

INTRODUCTORY SPEECHES

Following the welcome addresses by the organizers, **Mr Kanyinke Sena**, a member of the UN Permanent Forum on Indigenous Issues, gave an introductory speech on behalf of the Permanent Forum. Mr Sena explained that the Permanent Forum was established by the United Nations Economic and Social Council (ECOSOC) and that part of its mandate was to “provide expert advice and recommendations on Indigenous issues to the UN system through ECOSOC; raise awareness and promote the integration and coordination of relevant activities within the UN system; and prepare and disseminate information on Indigenous issues”.

He noted that, since its first session in 2002, the Permanent Forum had been alerted to “a list of indigenous sites inscribed or nominated for the World Heritage List, usually without the adequate participation and involvement of indigenous peoples.” In light of the concerns expressed by Indigenous peoples, Mr Sena recalled, the Forum had at its 9th session called upon UNESCO “to support Indigenous peoples in their processes of cultural heritage restoration and strengthening”, noting that “these processes should be guided by Indigenous peoples in order to avoid the misuse and distortion of indigenous peoples’ cultures, practices and knowledge and to respect their perspectives and aspirations.” “The Forum reiterates”, said Mr Sena, “that whenever decisions that affect indigenous peoples are taken by States and intergovernmental bodies, consultations should be carried out to obtain their free, prior and informed consent before any development or conservation project is brought into their territories.”

Mr Sena recalled that, in 2010 and 2011, the Permanent Forum had participated in the sessions of the World Heritage Committee and had presented statements to the Committee. In 2010, the Permanent Forum recommended, among other things, “that the UN Declaration on the Rights of Indigenous Peoples and the UNDG Guidelines on Indigenous Peoples’ Issues should be the framework when a site is found in indigenous territories”. In 2011 the Permanent Forum encouraged a review of current procedures and capacity to ensure free, prior and informed consent, and the protection of indigenous peoples’ livelihoods, tangible and intangible heritage. The Forum made itself available “to assist in the review and revision of UNESCO Operational Guidelines with regard to nomina-



Kanyinke Sena, UN Permanent Forum on Indigenous Issues

tions and site assessments” and recommended that UNESCO “invite indigenous peoples’ representatives and experts to contribute to deliberations and recommend changes to procedures and Operational Guidelines.” The Forum further recommended that the World Heritage Committee and the Advisory Bodies “scrutinize current World Heritage nominations to ensure they comply with international norms and standards of free, prior and informed consent.”

In conclusion, Mr Sena said, “More work needs to be done, especially around better communication structures between the different actors at all stages of the inscription process” and that there was a need for “more focus on strengthening participation processes”. He also highlighted the need to develop working relationships between the World Heritage Committee and the Permanent Forum and other expert mechanisms in order to advance the rights of Indigenous peoples in the context of the World Heritage Convention.

Dr Mechtild Rössler, Chief of the Policy and Statutory Meetings Section at the UNESCO World Heritage Centre, gave an introductory speech on behalf of the World Heritage Centre focusing on the history and evolution of the World Heritage Convention. The Convention was adopted by UNESCO’s General Conference in 1972, following the World Conference on the Human Environment in Stockholm, and with 190 States Parties is today the most universal convention in the field of heritage conservation.



Photo: George Asher

Mount Ngauruhoe in Tongariro National Park (New Zealand/Aotearoa)

Dr Rössler explained that the interpretation of the World Heritage Convention had significantly evolved since its adoption, “in a way that was never imagined in 1972”. An important turning point for Indigenous peoples, she said, was the World Heritage Committee’s decision in 1992 to accept “cultural landscapes” as a new category of World Heritage Site. This, for instance, allowed the re-nomination of Uluru-Kata Tjuta National Park in Australia for its cultural values, according to the wishes of the traditional Aboriginal owners. The Park had already been on the World Heritage List since 1987, but exclusively as a “natural site”. In 1994, it was officially recognized by the World Heritage Committee, Dr Rössler said, as “a living landscape and a sacred site, and thus not only for its desert diversity but also for the values represented by the Indigenous peoples and their history, and this had a substantial impact on the management of the site”. Similarly, in 1993 the Committee re-listed Tongariro National Park in New Zealand as a cultural landscape because of its Indigenous cultural values. Dr Rössler recalled that this “was one of the most difficult discussions because the Committee members would say: ‘We don’t see anything... What is cultural heritage here? This is exclusively natural heritage!’” However, in the end the Committee accepted, said Dr Rössler, “that this is a most sacred

site for the Maori people, and it was inscribed as a cultural landscape, for its associative cultural values”.⁷

Other turning points in the history of the Convention highlighted by Dr Rössler as important for Indigenous peoples were the “anthropological turn of the Convention” that came with the 1994 adoption of the Global Strategy for a Balanced, Representative and Credible World Heritage List (aimed at addressing the imbalances on the List between regions of the world, and the types of sites and periods represented); the entry of the notion of “sustainable development” into the Operational Guidelines in 2005 (see paras 6 and 132 of the Guidelines); and the Committee’s 2007 adoption of the fifth Strategic Objective, the so-called “fifth C” (“Enhance the role of Communities in the implementation of the World Heritage Convention”). Dr Rössler also highlighted the Committee’s decision to accept traditional management as an adequate form of management for World Heritage sites. Before 1992, she explained, “a kind of western style management plan was requested. Since 1992 traditional management is possible

⁷ “Associative” cultural landscapes are inscribed on the World Heritage List because of “the powerful religious, artistic or cultural associations of the natural element rather than material cultural evidence, which may be insignificant or even absent”. See Operational Guidelines, Annex 3, para. 10 (iii).

for cultural sites, and since the inscription of East Rennell in 1998, which was inscribed as a natural site, traditional management is also allowed for natural sites.”

Dr Rössler then talked about the 2000 proposal from a forum of Indigenous peoples assembled in Cairns, Australia that a World Heritage Indigenous Peoples’ Council of Experts (WHIPCOE) be established as a consultative body to the World Heritage Committee. The proposal was discussed and further developed by a working group mandated by the World Heritage Committee which met in Winnipeg, Canada in November 2011. However, “the Committee did not accept the proposal at all” which, she said, was for her and many of her colleagues “one of the saddest moments in the history of the Convention”. According to the report on the Committee’s twenty-fifth session, “The Committee raised a number of legal concerns and issues relating to the funding, legal status, role and relationships (with the States Parties, Advisory Bodies, World Heritage Committee and World Heritage Centre). Some members of the Committee questioned the definition of indigenous peoples and the relevance of such a distinction in different regions of the world. As a result, the Committee did not approve the establishment of WHIPCOE as a consultative body of the Committee or as a network to report to the Committee. The Committee did not provide funding for a second meeting to discuss WHIPCOE as proposed...”⁸ According to Dr Rössler, “These are issues you still hear today among some Committee members”.

Nevertheless Dr Rössler said that there had been some headway since 2001. She drew attention to a number of recent initiatives and publications of the World Heritage Centre, including an international symposium on “Conserving Cultural and Biological Diversity: The Role of Sacred Natural Sites and Cultural Landscapes” (Tokyo, 2005) and a publication on “World Heritage and Indigenous Peoples” (World Heritage Review 62, 2012). She also noted the theme of the 40th anniversary of the World Heritage Convention, “World Heritage and Sustainable Development: the Role of Local Communities”, and that the World Heritage Committee had passed a decision noting that considerations related to Indigenous peoples should be included in the theme of the anniversary (Decision 35 COM 12D). “We need to have a very careful assessment of the situation, of where we stand, and I truly believe that Indigenous peoples have to play a role in this Convention,” Dr



Mechtild Rössler, UNESCO World Heritage Centre

Rössler said in closing. “We can make this Convention much better in practice.”

The third and final introductory speech was given by **Ms Mili-lani Trask**, an Indigenous lawyer from Hawai’i and a former member of the UN Permanent Forum on Indigenous Issues. Ms Trask recalled that, for the last few years, “Indigenous peoples, nations and organizations have raised serious concerns relating to violations of their human rights occurring as a result of the implementation of the World Heritage Convention.” The concerns were raised in a number of joint statements delivered at the Permanent Forum and other UN bodies and also submitted to the World Heritage Committee.

Ms Trask mentioned several examples of recent World Heritage nominations in which “the process utilized by UNESCO, the World Heritage Committee and its Advisory Bodies IUCN and ICOMOS lacked transparency, excluded Indigenous peoples and did not respect the provisions of the United Nations Declaration on the Rights of Indigenous Peoples, including the principle of free, prior and informed consent”. The cases mentioned were the Papahānaumokuākea Marine National Monument, the Ngorongoro Conservation Area, the Kenya Lake System in the Great Rift Valley, the Western Ghats and the Trinational de la Sangha. Ms Trask said that, although in each of these cases the territories listed consisted of traditional land and resource areas of Indigenous peoples, “the Advisory Bodies travelled to the nominated site, held extensive meetings with States but, unfortunately, failed to adequately consult with Indigenous peoples.”

Moreover, Ms Trask said that in some of these cases UNESCO and the World Heritage Committee had also received information regarding human rights violations from relevant

8 Doc. WHC-01/CONF.208/24, para. XV.5. For the various documents and reports on WHIPCOE see <http://whc.unesco.org/en/activities/496/>.



Mililani Trask, Na Koa Ikaika Ka Lahui Hawaii

State or international bodies but that the information had been ignored. In the case of the Kenya Lake System, UNESCO had received information about a decision of the African Commission on Human and Peoples' Rights, finding that the Endorois people were the rightful owners of a significant part of the Kenya Lake System area and stating clearly that the consent of the Endorois would have to be obtained for any significant future decisions regarding this area. "The World Heritage Committee and UNESCO chose to ignore the ruling of the African Commission," Ms Trask stated, "although they received several communications drawing their attention to the ruling and expressing the objections of the Endorois community to the World Heritage nomination, and knowing that the human rights of the Endorois would continue to be violated as a result of their actions. Consequently, the World Heritage Committee and UNESCO are also violating the human rights of the Endorois people."

In the case of the Papahānaumokuākea Marine Monument, Ms Trask said that UNESCO and the World Heritage Committee had received written submissions requesting that action be deferred until the consent of Indigenous peoples was proven, but "chose to proceed, thereby condoning, sanctioning and endorsing violations of the human rights of the Indigenous peoples. These include violations of our rights to our traditional lands, territories and resources, compromising our ability to carry out subsistence fishing, and violations of our right to participate in decision-making affecting our rights."

"The record reveals," said Ms Trask, "that for several years Indigenous peoples as well as United Nations bodies, including the UN General Assembly, have repeatedly attempted to address the ongoing human rights violations resulting from

the implementation of the World Heritage Convention by making recommendations for corrective action." She referred to recommendations made by the Permanent Forum on Indigenous Issues, the UN Expert Mechanism on the Rights of Indigenous Peoples and the African Commission on Human and Peoples' Rights. She also noted that as early as 2005 the UN General Assembly had urged UNESCO "to establish mechanisms to enable indigenous peoples to participate effectively in its work relating to them, such as... nomination of indigenous sites in the World Heritage List" (Programme of Action for the Second International Decade of the World's Indigenous People). "These recommendations have been and continue to be ignored by the World Heritage Committee and UNESCO," Ms Trask asserted, "demonstrating their lack of genuine commitment to implement the UN Declaration on the Rights of Indigenous Peoples, despite many promises by the highest ranking officials."

Ms Trask also criticized the "many instances in which the World Heritage Committee chose to inscribe sites located in Indigenous territories based on natural or archaeological values but ignoring the cultural value of the areas for Indigenous peoples". She questioned how this was consistent with the Operational Guidelines for the Implementation of the World Heritage Convention, according to which "the respect due to all cultures requires that cultural heritage must be considered and judged primarily within the cultural contexts to which it belongs". The World Heritage Committee and UNESCO have not had any problem in applying these criteria to sites of significance to dominant society, Ms Trask remarked, "but consistently demonstrate their inability to apply these standards to nominations involving Indigenous lands, territories and resources. In the case of Indigenous peoples, UNESCO and its affiliates IUCN, ICOMOS and ICCROM, impose their own interpretations of 'outstanding universal value', 'integrity' and 'authenticity' rather than ensuring that the cultural values of Indigenous people are included and addressed."

In closing, Ms Trask called on the expert workshop to "issue findings regarding the human rights violations committed against indigenous peoples as a result of the way the World Heritage Convention is currently being implemented" and to "propose a protective mechanism and new language for inclusion in the Operational Guidelines". She stated that the experts assembled at the workshop, with their combined knowledge and expertise, "should be able to come up with workable and principled recommendations for solutions which are urgently needed not only for protecting indigenous peo-

ples but also for protecting the credibility of UNESCO as an organization committed to human rights and cultural diversity.”

Q&A Session

A question and answer session followed the introductory speeches in which the speakers were asked by Ms Søvn Dahl Pedersen what, in their view, were the key aspects to keep in mind and focus on during the workshop, also with a view to coming up with a useful outcome document. Dr Rössler emphasized that any recommendations resulting from the workshop needed to be highly concrete and practical and targeted at the appropriate entities. Mr Sena said, “In the Permanent Forum, we are keen to look at the processes through which Indigenous peoples participate, from before a site is even nominated, during the process of review by the Advisory Bodies, and in the management once a site has been inscribed.” He noted that there was not much awareness among Indigenous peoples as to how the whole World Heritage system worked, and that it was important to talk about how to make Indigenous peoples better understand the system. He further said that the workshop should discuss how free, prior and informed consent (FPIC) could be operationalized in a World Heritage nomination process. Ms Trask suggested that the workshop could look at the procedures of other conventions and see how they could be adapted to the World Heritage context. She specifically referred to the FPIC procedure under the 2003 Intangible Cultural Heritage Convention. Mr Sena added that another useful model might be the UN-REDD Programme’s guidelines and mechanisms for ensuring respect for Indigenous peoples’ right to free, prior and informed consent in REDD+ processes.

Mr Max Ooft of the Association of Indigenous Village Leaders in Suriname (VIDS) underlined the fact that the World Heritage Convention’s existing regulations and procedures urgently needed to be changed to ensure compliance with the UN Declaration on the Rights of Indigenous Peoples, but asked what the World Heritage Centre could do in the meantime to prevent violations of Indigenous rights from happening, for instance in the context of World Heritage nominations. Dr Rössler responded that, with regard to World Heritage nominations, the Centre, as the Secretariat of the Convention, under the Operational Guidelines had “a very clear procedure as to what we are allowed to do and what not. Only if a nomination dossier is incomplete can we send it back to the State Party.” She said that the World Heritage Committee would have to change the procedures for the Centre to be able to look at issues concerning Indigenous peoples as part of the completeness check. Under the existing procedures, she said, the Centre might be able to intervene while a nomination dossier was still under preparation, “because our role is also to help countries make better nominations but, when a dossier reaches UNESCO, it is too late.” She explained that all sites had to be on a State Party’s so-called ‘Tentative List’ for at least one year before they could be nominated, and that Indigenous peoples could alert the World Heritage Centre to issues concerning sites on the tentative lists at any time (all tentative lists are publicly available on the UNESCO website). Dr Rössler noted, however, that the descriptions of the sites on the tentative lists were very short and general, and no maps delineating the territory were included. It might sometimes therefore be difficult to tell whether a site was of relevance to Indigenous peoples. ○

THE HUMAN RIGHTS AND POLICY FRAMEWORK



Ms Nicolaisen, Dr Nakashima, Chief Littlechild and Professor Dorough

The first session of the meeting focused on the human rights and policy framework relevant to the meeting and was opened by **Professor Dalee Sambo Dorough**, an Inuit human rights expert from Alaska and a current member of the UN Permanent Forum on Indigenous Issues. Professor Dorough began by comparing the perspectives and perceptions of the 1972 World Heritage Convention (including the concept of “outstanding universal value” and the idea of World Heritage sites) with the world perspectives of Indigenous peoples, emphasizing that there is “a collision of world perspectives with regard to the notion of people and their place” which amounts to a “clash of cultures”. While she acknowledged “the important progression from the hard language of the Convention in 1972 to notions of cultural landscapes and associative values”, she underlined the fact that “in the context of Indigenous peoples and our world perspectives, they are not simply cultural landscapes – they are political landscapes, they are economic landscapes, they are social landscapes, they are Indigenous landscapes.”

“Indigenous peoples have been repeatedly pressured into giving up their political interest, their economic interest, their social and cultural interest” when their lands and territories are designated as World Heritage sites, Professor Dorough said. States, on the other hand, she noted, “are never pressured, in the context of a World Heritage Site designation, to give up their economic or their political interest”. This is assured by the Convention itself, which makes it clear that World Heritage Site designations are without prejudice to the sovereignty of the States on whose territory the respective sites are situated

(Art. 6, para. 1). “It is going to require a major paradigm shift for us to effectively intersect the cultural context of Indigenous peoples, as well as the economic, social and political context of Indigenous peoples, with the perspectives of the World Heritage Convention,” Professor Dorough observed.

Noting the focus of the Convention’s 40th anniversary celebrations on the “role of local communities” and “issues pertaining to the well-being and responsibilities of local communities”,⁹ Professor Dorough then turned to discussing the role of Indigenous peoples in relation to the Convention. “Indigenous peoples are not simply talking about being participants in conservation initiatives,” she emphasized. “That’s less than a role. Indigenous peoples are talking about something much broader.” She outlined some of the key human rights standards relating to Indigenous peoples that are relevant in the context of the Convention and need to be recognized and respected in its implementation, not only by States Parties but also by the Convention bodies. Professor Dorough underlined the fundamental importance of Indigenous peoples’ right to self-determination and their rights to their lands, territories and resources. “All rights of Indigenous peoples,” she said, “are interdependent and interrelated with self-determination and rights to lands, territories and resources. That’s the basic nature of human rights; the right of self-determination is recognized as a prerequisite for the exercise and enjoyment of all other human rights.” An essential dimension of Indigenous

⁹ See UNESCO Doc. WHC-10/35.COM/12D (2011).

peoples' right to self-determination, Professor Dorough noted, was their right to free, prior and informed consent.

Ensuring that the free and informed consent of Indigenous peoples is obtained prior to World Heritage Site designations affecting them, Professor Dorough underscored, "is something that will have to be tackled in terms of operational guidelines". In assessing nominations, the World Heritage Committee and the Advisory Bodies should not only scrutinize whether there are Indigenous peoples who are impacted by a given nomination, but also how the nominating State has addressed their rights to lands, territories and resources, and whether rights are outstanding. "This may end up triggering important domestic dialogue," she noted.

With regard to the conservation and management of sites that are already inscribed on the World Heritage List, Professor Dorough outlined a number of issues that needed to be discussed in the context of improving the Operational Guidelines: Indigenous peoples' rights to their traditional economies and subsistence activities; Indigenous knowledge; sacred sites; effects of World Heritage sites on treaties and agreements between Indigenous peoples and States; redress for past violations of Indigenous rights; the accurate portrayal of Indigenous peoples' histories in the interpretation of sites; Indigenous peoples' right to establish their own priorities for development; cross-border rights of Indigenous peoples (in the context of cross-border World Heritage sites); and, finally, access to technical and financial resources enabling Indigenous peoples to play an effective role in the protection of World Heritage sites and the implementation of the Convention.

Dr Wilton Littlechild, International Chief for the Confederacy of Treaty 6 First Nations (Canada) and Chair of the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), then gave a presentation on the right of Indigenous peoples to participate in decision-making and EMRIP's consideration of the issue of World Heritage sites in this context. He explained that the Expert Mechanism had recently completed two studies on the right of Indigenous peoples to participate in decision-making¹⁰, noting that these studies "provide a legal and policy framework for examining the appropriate approach to heritage site nominations and designations" and were therefore highly relevant for the implementation of the World Heritage Convention. Moreover, the issue of World Heritage



Dalee Sambo Dorough, UN Permanent Forum on Indigenous Issues

sites was highlighted in the Expert Mechanism's reports on its fourth and fifth sessions in 2011 and 2012 respectively.¹¹

Chief Littlechild also pointed to two recent studies by the UN Special Rapporteur on the Rights of Indigenous Peoples¹² and the UN Permanent Forum on Indigenous Issues¹³ which he said were relevant in the context of World Heritage sites. Additionally, he said that the Guiding Principles on Business and Human Rights, developed by the UN Secretary-General's Special Representative on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, could be helpful in this context.¹⁴

The fundamental underpinning of all the Expert Mechanism's work, Chief Littlechild emphasized, was the right of Indigenous peoples to self-determination. He said that this also applied to work related to the right to participate in decision-making, and to the Expert Mechanism's observations and proposals regarding the World Heritage Convention. The Expert Mechanism has underscored that "UNESCO must enable and ensure effective representation and participation of indigenous peoples in decision-making related to the World Heritage Convention and that robust procedures and mechanisms should be established to ensure that indigenous peoples are adequately consulted and involved in the management and protection of World Heritage sites, and that their free, prior

10 Final report of the study on indigenous peoples and the right to participate in decision-making (2011), Doc. A/HRC/18/42; Follow-up report on indigenous peoples and the right to participate in decision-making, with a focus on extractive industries (2012), Doc. A/HRC/21/55.

11 Docs. A/HRC/18/43 (2011), para. 31; and Doc. A/HRC/21/52 (2012), paras. 2, 53 and 56.

12 Report by the Special Rapporteur on the rights of indigenous peoples, James Anaya: Extractive industries operating within or near indigenous territories, Doc. A/HRC/18/35 (2011).

13 Analysis of the duty of the State to protect indigenous peoples affected by transnational corporations and other business enterprises, Doc. E/C.19/2012/3 (2012).

14 Doc. A/HRC/17/31 (2011).



Chief Wilton Littlechild, UN Expert Mechanism on the Rights of Indigenous Peoples

and informed consent is obtained when their territories are being nominated and inscribed as World Heritage sites.” Additionally, the Expert Mechanism has encouraged the World Heritage Committee to establish a process to elaborate, with the full and effective participation of Indigenous peoples, changes to the current procedures and operational guidelines in order to ensure consistency with the UN Declaration on the Rights of Indigenous Peoples.¹⁵

Chief Littlechild said that the key messages that he wanted to share with the workshop participants were first “the need to respect the rights of Indigenous peoples, especially the right to free, prior and informed consent, and to the maintenance, control and protection of cultural heritage, traditional knowledge and traditional cultural expressions and related intellectual property”, and second, the need to “build partnerships between Indigenous peoples, States and relevant UN agencies that result in an approach to World Heritage sites that respects and promotes the rights of Indigenous peoples”. He added that “the very specific Article that helps us and guides us in this particular way is Article 31 of the UN Declaration”.

Finally, Chief Littlechild made some comments on the content of Indigenous peoples’ right to free, prior and informed consent in the context of the World Heritage Convention. “Although some people say it’s the right to say ‘no’ to proposed developments,” he said, “I think it is important also to couch it in a different way, which is the right to say ‘yes’ to develop-

ments, for example World Heritage Site designations on Indigenous peoples’ lands and territories.” He emphasized that consent would have to be “determined in conformity with, or respect for, Indigenous peoples’ cultures, customary systems and practices, and according to Indigenous peoples’ own representative organizations and institutions”. Further, it was important for consent to be obtained “through an iterative and negotiated process, not a hurried or ‘one-off’ approach”, and “of course without coercion or duress and before the initiation of activities, for example, site designation”.

The third speaker on the panel was **Dr Douglas Nakashima**, Chief of UNESCO’s Small Islands and Indigenous Knowledge Section and the organization’s focal point for Indigenous peoples, whose presentation focused on UNESCO’s work towards a Policy on Engaging with Indigenous Peoples. Dr Nakashima explained that UNESCO had five major programme areas, all of which were of relevance to Indigenous peoples: Education; Natural Sciences; Social and Human Sciences; Culture; and Communication and Information. He stressed that Indigenous peoples should be paying attention to all of these programme areas, not only because some programmes could bring advantages of great interest but also because some activities could have negative impacts on Indigenous peoples if not aligned appropriately with Indigenous needs and aspirations. Therefore, “the active participation of Indigenous peoples within the framework of UNESCO is extremely important”, Dr Nakashima said. He noted that there were different levels of official relations that NGOs could have with UNESCO and encouraged Indigenous organizations to enter into such formal relationships.

The decision to develop a UNESCO Policy on Engaging with Indigenous Peoples was taken by UNESCO Director-General Irina Bokova in 2010 in response to the adoption of the UN Declaration on the Rights of Indigenous Peoples, specific calls from the UN Permanent Forum on Indigenous Issues, and the growing interest of Indigenous communities in UNESCO programmes, including criticism of some of the activities and decisions that had been undertaken. In April 2011, an in-house process was set up at the highest level, involving all Assistant Director-Generals and a house-wide working group. During UNESCO’s General Conference in November 2011, the policy development process was officially launched with a panel discussion involving the Chair of the Permanent Forum, the Chair of EMRIP and the Special Rapporteur on the Rights of Indigenous Peoples. The main objectives of the initiative, Dr Nakashima said, were to “position UNESCO’s programmes, procedures and activities with respect to the new institutional landscape since the adoption of the UNDRIP, and

¹⁵ See Doc. A/HRC/21/52 (2012), p. 7 (Proposal 9: World Heritage Committee), and Expert Mechanism Advice No. 2 (2011): Indigenous peoples and the right to participate in decision-making, para. 38 (A/HRC/18/42, Annex).

to build awareness and provide guidance to UNESCO staff and committees in order to effectively implement human rights standards, including UNDRIP, in all of UNESCO's work."

In terms of the process to date, Dr Nakashima said that an external Indigenous consultant with broad UN and human rights experience, Mr Max Ooft had been engaged to conduct a stocktaking exercise within UNESCO to see how the organization was engaging with Indigenous peoples. The stocktaking involved consultations with staff across the entire organization and revealed the breadth of UNESCO's work with Indigenous peoples as well as missed opportunities. It also showed that some programmes might be having negative impacts on Indigenous communities when they could be having great benefits. In September 2012, a regional consultative workshop was held in Santiago de Chile to enable dialogue with Indigenous representatives on the policy. While the process as originally planned was to hold such workshops in all of the regions, Dr Nakashima said that this would not be possible due to UNESCO's current financial crisis. However, at least one additional regional workshop would be organized.

Dr Nakashima noted that "there are two layers of intergovernmental governance within UNESCO on certain issues". The main decision-making bodies of UNESCO itself are the General Conference of Member States and an Executive Board consisting of 58 Member States. However, UNESCO Conventions, such as the World Heritage Convention and the 2003 Convention on Intangible Cultural Heritage, have their own independent intergovernmental governance structures. The same is true for intergovernmental scientific programmes such as the Man and the Biosphere (MAB) Programme. Dr Nakashima said that "while in many cases the same member states are sitting on these different bodies, they take decisions independently and sometimes these decisions are contradictory".

Dr Nakashima also briefly talked about the free, prior and informed consent provisions under the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage. The Preamble of the 2003 Convention, he explained, recognizes "communities, in particular indigenous communities, groups and, in some cases, individuals" as primary agents in the production, safeguarding, maintenance and re-creation of intangible cultural heritage. Like the World Heritage Convention, the 2003 Convention has established two UNESCO lists of intangible cultural heritage (a "Representative List" and an "Urgent Safeguarding List") as well as a register of best practices. There are several examples of Indigenous peoples' intangible heritage that have been listed under the 2003 Convention (e.g.

the Polyphonic singing of the Aka Pygmies of Central Africa). States Parties must identify and define intangible cultural heritage with the participation of communities, groups and relevant non-governmental organizations. Evidence of the free, prior and informed consent of the communities, groups or, if applicable, individuals concerned is a prerequisite for inscription on the UNESCO lists of intangible heritage.¹⁶ "Free, prior and informed consent is mandatory in the implementation of the 2003 Convention," Dr Nakashima commented. "The challenge is how to implement it". He noted that a major fund had been established for building the capacity of States to implement the Convention, and that this capacity-building also included training on FPIC.

On a general note, Dr Nakashima remarked that free, prior and informed consent should not simply be considered as a yes or no at the end of a process, before a final decision is taken. He underlined the importance of "working upstream and involving Indigenous peoples much earlier in the process". While there was, of course, a need for consent at the end, free, prior and informed consent should be built in from the beginning, Dr Nakashima said, meaning that Indigenous peoples should be involved in setting the priorities and deciding on the objectives of a process, project or partnership.

Q&A Session

In the following question and answer session, Mr Stefan Disko, an IWGIA consultant on World Heritage matters, asked what impact the UNESCO policy on Indigenous peoples could potentially have on the World Heritage Committee. He noted that UNESCO had had a Human Rights Strategy since 2003 which committed the whole organization to a human rights-based approach but that this strategy had not had any impact on the World Heritage Convention. Dr Nakashima answered that a UNESCO policy on Indigenous peoples would not automatically have an effect on the World Heritage Committee due to its independent nature as a separate Convention body. However, through such a policy, a certain momentum could hopefully be developed that would make the Committee realize that it "must also move along". Dr Rössler added that the World Heritage Centre could inform the Committee officially and distribute the policy. She also said that the Centre was currently drafting "Policy Guidelines" at the request of the Committee and that the UNESCO policy on Indigenous peo-

¹⁶ See Art. 11 of the 2003 Convention and the Operational Directives for the Implementation of the Convention.

ples could potentially be integrated into these policy guidelines. She further noted that the Centre and the Advisory Bodies had established a group on human rights issues aimed at influencing the policies of the World Heritage Committee.

Several speakers emphasized the need for changes to the World Heritage Convention's operational guidelines. Considering that the World Heritage Committee and UNESCO are separate bodies, Mr Ooft said that it was necessary for the workshop to formally communicate to both that there was an urgent need to revise the Operational Guidelines in order to harmonize the implementation of the World Heritage Convention with agreed international standards on Indigenous peoples' rights. Professor Dorrough thought that, in advocating for changes to the Operational Guidelines, the workshop could build on the momentum generated by the development of a UNESCO policy on Indigenous peoples and on precedents such as the 2003 Convention's free, prior and informed consent mechanism. She expressed the hope that the three UN mechanisms on Indigenous peoples' issues (Permanent Forum, Expert Mechanism, Special Rapporteur) could be aligned around the outcome document of the workshop. Chief Littlechild suggested that the Expert Mechanism could poten-

tially also contribute something in the context of its mandate to produce research-based studies on questions related to Indigenous rights.

Dr Christian Erni, Asia Programme Coordinator for IWGIA, noted that the 2003 Convention recognized the "deep-seated interdependence between the intangible cultural heritage and the tangible cultural and natural heritage" and also stated "that existing international agreements, recommendations and resolutions concerning the cultural and natural heritage need to be effectively enriched and supplemented by means of new provisions relating to the intangible cultural heritage". He asked to what extent this kind of harmonization between the 2003 Convention and the World Heritage Convention had been discussed within UNESCO, noting that this might provide an opening for new approaches on the ground at World Heritage sites that could be interesting for Indigenous peoples. Dr Rössler responded that there was a task force among the culture conventions, and the workshop could recommend that they work more closely on those issues. The World Heritage Convention's operational guidelines could also potentially be changed to better reflect the interdependence between tangible and intangible cultural heritage. ○

THE WORLD HERITAGE CONVENTION AND INDIGENOUS PEOPLES' INVOLVEMENT: CURRENT PRACTICES AND CHALLENGES

The first session on the afternoon of September 20th included presentations by representatives of the World Heritage Centre, the Advisory Bodies and the African World Heritage Fund, and provided an overview of the World Heritage Convention, the roles of the various actors, and current practices regarding the involvement of Indigenous peoples. The session was opened by **Dr Mechtild Rössler** of the World Heritage Centre, who gave a general overview of the functioning of the World Heritage Convention focusing on two key processes: the identification and listing of World Heritage sites, and the conservation of sites already inscribed on the World Heritage List.

Before talking about the listing process, she explained that the World Heritage List was a select list of sites deemed to be of “outstanding universal value”, and that “the idea is to protect sites of truly universal value for future generations”. She emphasized that sites of outstanding universal value under *natural* criteria were not necessarily also sites of outstanding universal value under *cultural* criteria, and that it would therefore not be possible for all natural World Heritage sites located in Indigenous peoples' territories to be re-nominated for the cultural values of Indigenous peoples. She also noted the “huge legacy” that the World Heritage system was dealing with in relation to Indigenous peoples: the fact that in many cases around the world “Indigenous peoples and local communities were thrown out” when protected areas were declared. “This is not linked to the World Heritage Convention per se, but this is the legacy we are dealing with,” she said.

The first step in the World Heritage listing process, Dr Rössler explained, was the placement of a site on the respective State Party's tentative list. She said that for a long time tentative lists were not transparent, one country did not know what the other had on its list, but that now all tentative lists were globally accessible on the World Heritage Centre's website. There are about 1,000 sites on the tentative lists. Dr Rössler underlined how important it was for Indigenous peoples to know what was on the tentative lists, so that issues of concern to Indigenous peoples could be raised before nominations arrived at UNESCO, which she said was “a little bit too late”.

She proposed that “we need to have some sort of check-up of the tentative lists, we need to have an alert system”, and suggested that the Permanent Forum on Indigenous Issues could maybe play a role in this.

Nominations for the World Heritage List can take a very long time, Dr Rössler noted, in some cases up to 20 years. “There absolutely should be enough time for consultations and for free, prior and informed consent,” she said, but “this is not happening, for a great number of reasons.” She suggested that in the future maybe there should be a form, similar to that used in the context of the 2003 Intangible Cultural Heritage Convention, to demonstrate Indigenous peoples' free, prior and informed consent. Such a form would need to be signed by the Indigenous peoples concerned and this could be checked as part of the World Heritage Centre's completeness check of nominations. Dr Rössler cautioned, however, that the World Heritage Centre may not be able to prove that consultations were actually undertaken, because “we are not going on the ground when a nomination comes in”. It was the Advisory Bodies which carried out field visits as part of their evaluations.

Another concrete suggestion made by Dr Rössler was that the Resource Manual *Preparing World Heritage Nominations*, a joint production of the World Heritage Centre and the Advisory Bodies, could be updated with information regarding the involvement of Indigenous peoples. She also proposed that UNESCO Category 2 Centres dedicated to World Heritage could be used for capacity building on Indigenous issues.

In regard to the conservation of sites that are already inscribed on the World Heritage List, Dr Rössler noted that there are World Heritage sites that are “managed by the local people and are not managed by a western-style management plan and management system”. She also talked about the World Heritage Convention's reactive monitoring mechanism, which she said was an alert system that could be used by Indigenous peoples and others to notify UNESCO of problems at specific World Heritage sites, such as threats from mining activities. “In many cases we were able through these provi-



Dr Rössler, Mr Nyanglia, Ms Buckley and Mr Oviedo

sions to help to protect the sites and to help the people,” Dr Rössler said. She also mentioned the possibility for sites that are facing serious threats to be put on the List of World Heritage in Danger, which attracts the attention of the international community and has, in many cases, helped to save the sites.

Dr Rössler also briefly discussed the role of communities in the World Heritage Convention and the evolution of the Operational Guidelines in this regard. She pointed out that, prior to 1995, the Operational Guidelines contained a provision stating that: “States Parties should refrain from giving undue publicity to the fact that a property has been nominated for inscription pending the final decision of the Committee”. With the introduction of the cultural landscapes category in 1992, the view gained ground that the people who live in World Heritage areas and are maintaining the land need to be informed, and the paragraph was changed to read “Participation of local people in the nomination process is essential to make them feel a shared responsibility with the State Party in the maintenance of the site.” Since 2005, the Operational Guidelines have promoted a “partnership approach to nomination, management and monitoring”. While Indigenous peoples are not specifically mentioned in the Guidelines, “Partners in the

protection and conservation of World Heritage can be those individuals and other stakeholders, especially local communities, governmental, non-governmental and private organizations and owners who have an interest and involvement in the conservation and management of a World Heritage property” (para. 40).

Ms Kristal Buckley, Vice-President of ICOMOS, spoke about the roles of the World Heritage Committee’s three Advisory Bodies, ICOMOS, IUCN and ICCROM. The roles of the Advisory Bodies are outlined in paragraphs 30-37 of the Operational Guidelines and include, among other things: advising on implementation of the World Heritage Convention; assisting in monitoring and reporting on the state of conservation of World Heritage sites; evaluating sites nominated for inscription on the World Heritage List; reviewing requests for funding through the World Heritage Fund (International Assistance); and assisting the Secretariat in the preparation of the Committee’s documentation. Ms Buckley’s presentation focused on the evaluation of sites nominated for the World Heritage List.

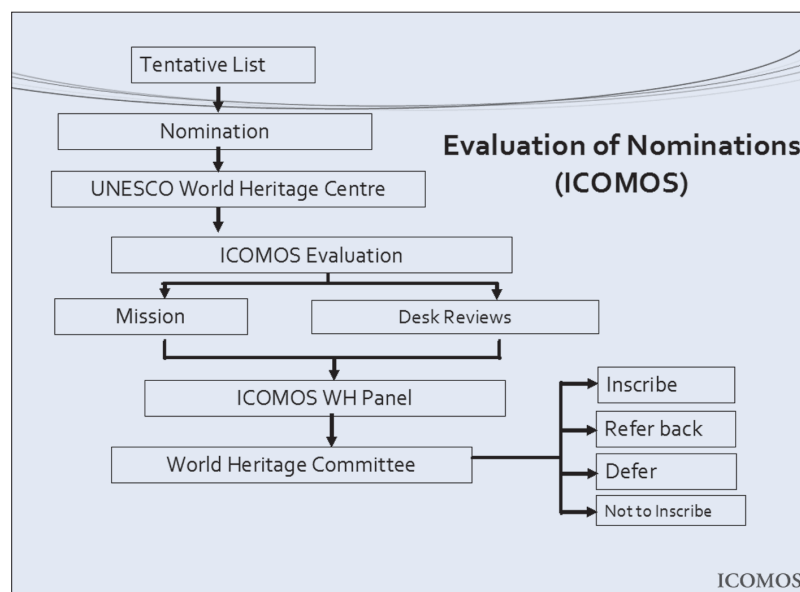
The evaluation of World Heritage nominations is conducted by IUCN (natural sites), ICOMOS (cultural sites), or IUCN and

ICOMOS together (mixed sites). They assess, among other things, whether or not nominated sites meet the criteria for Outstanding Universal Value (see Operational Guidelines, paras. 49 and 77), meet the conditions of integrity and authenticity, and have an adequate protection and management system to ensure their safeguarding, including an adequate boundary and an appropriate buffer zone. As well as evaluating new nominations, the Advisory Bodies evaluate minor boundary modifications, proposed extensions to World Heritage sites and revisions to Statements of Outstanding Universal Value. Their advice is submitted to the World Heritage Committee, which is the decision-making body and decides whether or not to inscribe the nominated sites on the World Heritage List. Ms Buckley noted that this process occurs with extremely limited external transparency.

Ms Buckley explained that World Heritage nominations can be for single heritage places or for sets of places; for culture or for nature (or both); or for places within one country or more than one country. Since 1992, there has also been the possibility of sites being nominated as cultural landscapes, in recognition of the close relationship between nature and culture. Ms Buckley stressed that it was up to the States Parties to decide what and when to nominate, and which values to propose. She said that many World Heritage sites could and should be nominated as cultural landscapes – or mixed properties - but were not nominated as such by the States Parties.

The diagram below shows the various steps in the World Heritage nomination and evaluation process. The first step is the placement of a site on a State Party's Tentative List. In 2011 it was decided that sites had to be on a Tentative List for at least one year before a nomination could be submitted to UNESCO. Ms Buckley remarked that this was an important change as at the Tentative List stage issues such as Indigenous peoples' consent could be checked and alerts occur. Once the nomination arrives at the World Heritage Centre, it is subject to a completeness check and, if judged complete, sent to the relevant Advisory Body(ies) for evaluation. Ms Buckley said that this usually happens in March and the Advisory Bodies have until approximately the end of April of the following year to submit their evaluation reports to UNESCO, so that they are available six weeks before the annual meeting of the World Heritage Committee in mid-year (the timeframes vary slightly depending on the date of the Committee session).

The Advisory Body evaluation entails a field mission that visits the site briefly and looks at issues related to management, protection, boundaries, authenticity/integrity, and the state of conservation. The field evaluators meet with site managers, stakeholders, communities and Indigenous peoples, although Ms Buckley noted that identifying the relevant Indigenous groups and making contact with them has been a problem for the Advisory Bodies in many cases. In addition to the field evaluations, desk reviews are done by a number of peo-



World Heritage Nomination/Evaluation Process (Note: the IUCN evaluation process is essentially the same as the ICOMOS process)

ple, who review the justification for Outstanding Universal Value – these reviewers might also point out issues relating to Indigenous peoples. All this information is assembled and considered by the ICOMOS World Heritage Panel or the IUCN World Heritage Panel, which meet twice, once in December and once in March. At various points during the evaluation period, an exchange of further information with State parties can occur which Ms Buckley said is an important part of how the files develop during the evaluation period and where additional information is submitted. Ms Buckley underlined the fact that the work done by the Advisory Bodies during the evaluation was very constrained in terms of the timelines, and must follow the Operational Guidelines. In many cases, there is also political pressure, Ms Buckley said. She also stressed that it was the World Heritage Committee that makes the decisions about listing, and that in recent years the Committee had taken a growing number of decisions against the advice of the Advisory Bodies' recommendations.

In closing, Ms Buckley recalled Article 5 of the World Heritage Convention, which highlights the need “to give the cultural and natural heritage a function in the life of the community”. She said that there was an awareness that social and cultural contexts are central to conservation, and that communities are pivotal. She mentioned that the Advisory Bodies were currently working together on an examination of how to more consistently adopt a rights-based approach to their work (a matter discussed in more detail by Dr Gonzalo Oviedo). Moreover, the Advisory Bodies were looking at how to embrace the inseparable character of culture and nature in many places, and how to improve their consideration of the heritage values of the lands and traditions of Indigenous peoples.

Mr Gonzalo Oviedo, IUCN's Senior Advisor for Social Policy, talked about what IUCN is doing to address the issues of Indigenous peoples, communities and rights in the context of the World Heritage Convention. He said that “IUCN uses a rights-based approach to its conservation work in general” and has been “exploring for some time how to address rights in the context of IUCN's work on World Heritage”. Mr Oviedo considers that World Heritage sites are ideally placed to showcase new conservation approaches and present a “very potent opportunity to advance the cause and interest of Indigenous peoples and communities”. However, “a challenge is that very often the parties and other players see Outstanding Universal Values as intrinsically conflicting with the rights and interests of local people, because OUV are meant to be universal, whereas local issues of Indigenous and other local

communities are seen as simply local. The question is how OUV can be looked at or re-examined through a cultural lens that also connects with the local cultures better”.

Since 2011, Mr Oviedo explained, the question of “how to address rights issues in the context of World Heritage” was being discussed jointly by the three Advisory Bodies and the World Heritage Centre. They felt that there was a “need to work on a two-track process: on the one hand improving our own current technical processes and tools and, on the other, influencing international policy frameworks through examples, good practice, and technical improvements”. However, Mr Oviedo believed that “because of the complexities of the policy and institutional setup of the Convention, if we want to make progress, we have to look more at national implementation than simply to influence the international context, which is so complex”. A critical aspect, he said, was partnering with key governments who may be willing to test new approaches, and stronger partnerships with indigenous and community organizations and institutions such as the UN Permanent Forum on Indigenous Issues. Mr Oviedo emphasized that “there is a lot that can be done, even in the absence of immediate changes in the legal and institutional context of the Convention”.

IUCN recently undertook a review of its own procedures and tools for addressing the rights of Indigenous peoples and communities, which Mr. Oviedo said was also broadly applicable to ICOMOS and had been discussed with them. The review¹⁷ was published in June 2012, along with a related joint report¹⁸ by IUCN, ICOMOS and ICCROM, which highlights opportunities for improving the work of all three Advisory Bodies. IUCN and ICOMOS have agreed, Mr Oviedo said, that “starting with this year's cycle, all nominations are going to be reviewed under a framework that highlights rights”. They have developed a re-structured reporting format and new guidance for evaluators on how to collect data, and are organizing dedicated community and rights reviews for select cases. They are also trying to enhance engagement with Indigenous peoples and local community organizations in this process, as well as with other partners. Mr Oviedo said that IUCN and ICOMOS consider this a “learn-

17 P.B. Larsen, “IUCN, World Heritage and Evaluation Processes Related to Communities and Rights”, http://cmsdata.iucn.org/downloads/review_world_heritage_communities_and_rights_larsen_2012.pdf.

18 P.B. Larsen, “Discussion Paper: Advisory body evaluations of World Heritage nominations in relation to community and rights concerns, an independent assessment”, http://cmsdata.iucn.org/downloads/world_heritage_and_communities_advisory_body_follow_up_larsen_2012.pdf.

ing-by-doing process, because we need to learn a lot from practical implementation”.

Mr Oviedo underlined that World Heritage nomination and evaluation processes “can be very constructive spaces for addressing Indigenous peoples’ and community rights” and that the Advisory Bodies’ evaluations were “a critical opportunity to identify and resolve outstanding challenges both in terms of legacy and nomination processes.” He cautioned, however, that the evaluations “cannot solve all the problems”, adding that “at a point, in some cases in particular, we inevitably reach a situation where we have to assess how far we can realistically go regarding a particular site and a particular nomination process, because we know that we won’t be able to solve everything.” He also cautioned that the Advisory Bodies “face very real time and financial constraints. There is only so much that we can do.” So the question was, he said, “how far we can go given the real time and financial constraints, and how we can improve the processes, given all these limitations”.

Another difficulty, according to Mr Oviedo, was the diversity of cases. “There is no one single rule that will apply equally in every place. Issues that are important at the policy level, from free, prior and informed consent to self-determination, will not apply in the same way in every country, in every place, at every moment.”

On a more technical level, Mr Oviedo said that a main limitation and challenge for the Advisory Bodies had been the absence of an explicit “reporting space” for issues related to Indigenous peoples and local communities in the World Heritage Committee’s nomination/evaluation formats. “There is a bundle of community rights that need to be addressed in the process of evaluation, including: rights to information, consultation and consent; tenure rights; management and decision-making rights; livelihoods, development and benefit-sharing rights; and cultural rights. This should not be a marginal set of things but a central part of the evaluation.” Due to the lack of an explicit reporting space, Mr Oviedo said, “Some key community issues have been identified in our processes as ‘additional information of importance to the sites’ but this element needs to be strengthened and brought more to the fore in the evaluations.”

Mr Oviedo emphasized the importance of the UN Permanent Forum on Indigenous Issues’ engagement and called for a strengthening of the Forum’s role in the World Heritage Convention. “IUCN believes that the Permanent Forum, as

the body in the UN system mandated to provide expert advice on Indigenous issues, is *the body* to work with at the level of the World Heritage Committee in addressing Indigenous issues”. The Forum could, for instance, “facilitate gathering feedback and setting up appropriate consultation processes, particularly in countries where the nomination process may be especially difficult for Indigenous peoples and communities”.

At the end of his presentation, Mr Oviedo provided a brief update on the IUCN World Conservation Congress in Jeju (September 2012). He said that there were a number of technical events that had discussed issues related to World Heritage and Indigenous peoples. The Congress had adopted two resolutions on World Heritage, one of which called on the World Heritage Committee to develop new processes and standards that would ensure that the Convention appropriately recognizes the rights of Indigenous peoples (Res. 046). The other resolution specifically focused on the implementation of the UN Declaration on the Rights of Indigenous Peoples in the context of the World Heritage Convention (Res. 047), and called on the Committee and States Parties to ensure that Indigenous peoples’ rights and all human rights are upheld and implemented in the management and protection of existing World Heritage sites, and the establishment of new sites.

The final speaker on the panel was **Mr Jacob Nyangila**, Programme Specialist at the African World Heritage Fund (AWHF), who gave an overview of the role and work of the Fund and its practice and experiences regarding the involvement of Indigenous peoples in the nomination and management of World Heritage sites. Mr Nyangila explained that the AWHF is an intergovernmental organization launched in 2006 with a mandate from the African Union. He said that the Fund had three main objectives: 1) to contribute to making the World Heritage List credible, representative and balanced, by providing support to the nomination of African heritage sites, which are under-represented on the List of World Heritage sites; 2) to ensure sustainable management and conservation of the World Heritage sites; and 3) to ensure that World Heritage sites contribute to sustainable economic development aimed at improving the local people’s livelihoods.

Practically, the AWHF provides financial and technical support for effective conservation and management of World Heritage sites in Africa; supports African countries in the preparation of national tentative lists and nomination dossiers; supports the removal of sites from the List of World Heritage in Danger; supports thematic workshops on topics related to World Her-

itage Site management; and supports activities around World Heritage sites to mitigate the negative impact of development. Mr Nyangila also mentioned that there was a special training programme on the preparation of World Heritage nominations, which has been carried out in different parts of the continent, and a programme on sustainable tourism aimed at establishing pilot projects at selected World Heritage sites to create benefits from sustainable tourism for local communities.

Mr Nyangila then discussed the issue of Indigenous peoples' involvement in the nomination process, using the nomination of the Kenya Lake System as an example, as he considered this to be "one of the most successful nominations". He said that, between 2008 and 2010, both the AWHF and the Nordic World Heritage Foundation had provided financial and technical support for the preparation of the nomination dossier. The Kenya Lake System was inscribed as a natural World Heritage Site in 2011 and includes three lakes in Kenya's Great Rift Valley: Lake Bogoria, Lake Nakuru and Lake Elementaita. The Indigenous peoples living around the lakes are the Endorois (Lake Bogoria) and the Maasai (Lake Nakuru and Lake Elementaita).

Around Lake Bogoria, Mr Nyangila reported, "The local communities were involved in the decision-making process through workshops and local associations and authorities." He said that local communities were involved in the preparation of the Bogoria Integrated Management Plan (2007-2012) and in the zoning of the reserve according to land use (identification of dry season pasture sites, ritual sites, freshwater resources, salt licks, etc). Additionally, "Indigenous people were involved in the documentation of traditional knowledge related to the natural and cultural resources found within and around the lake systems". At Lake Elementaita, Mr Nyangila said, consultative meetings were held with local communities to deliberate on the management plan for the Greater Lake Elementaita Conservation Area (2010-2020), which "was finally drafted with inputs from all the stakeholders, including the local communities".

Mr Nyangila also briefly talked about the Sacred Mijikenda Kaya Forests, another World Heritage Site in Kenya that was nominated with financial support from the AWHF. He said that, in partnership with the local communities, the Mijikenda, the National Museums of Kenya (the institution that is in charge of the management of this site) was initiating ecotourism programs to conserve and utilize the Kaya sacred forests, and that these initiatives "are aimed at reviving traditional knowledge and practices in order to enable the local communities to have access to alternative economic livelihoods".

Q&A Session

In the question and answer session that followed these presentations, Ms Helen Tugendhat, Policy Advisor for the UK-based Forest Peoples Programme, asked what role the Advisory Bodies and UNESCO might be able to play in terms of redress for the injustices of past protected area policies and past violations of Indigenous peoples' rights in areas now inscribed on the World Heritage List. Dr Rössler noted that in many World Heritage areas these histories were not even told. Ms Buckley answered that the World Heritage system was "not going to easily fix legacy issues, some of which are immense and long-standing", but that the long-term process of monitoring, reporting and continuing to engage may provide opportunities whereby "some of the impacts of these legacy issues could start to be at least acknowledged and discussed". Mr Oviedo said that redress had to be built into the processes of evaluation in terms of opportunities for that, but that one "should not have expectations that this will solve everything in all cases". Based on the evaluations of World Heritage nominations, the Advisory Bodies and the World Heritage Committee should ensure that "provisions are built into the site management regulations and plans by which the State Party commits to working with Indigenous communities in order to provide greater benefits, compensation, or redress – as best as possible."

Professor Dorough underlined the significance of the fact that the United Nations member states had adopted the UN Declaration on the Rights of Indigenous Peoples, which sets out minimum standards and basic guidelines for the member states and all agencies and organs of the United Nations. The Declaration contains a number of provisions which affirm the right of Indigenous peoples to redress for past injustices and the corresponding obligations of States to provide redress. "The States Parties of the World Heritage Convention, itself a solemn international instrument, should be taking the right of Indigenous peoples to redress seriously", said Professor Dorough. "This means that we have to go back and revisit legacy issues in existing World Heritage sites." She stressed the importance of ensuring that the issue of redress was discussed in the process of reviewing the Operational Guidelines.

Dr Barume inquired about the decision-making process of the World Heritage Committee. Dr Rössler explained that the Committee consisted of State Parties rather than individual experts and that all Committee members served as representatives of their country and not in a personal capacity. She said that the original idea had been for Committee delegations to consist of both diplomats and heritage experts but that, over time, "the

diplomats took over because the World Heritage Convention became more and more politicized". Nowadays, she said, "It is often politics-driven and not substance-driven any more". Some countries no longer have experts on their delegations but send only diplomats. Dr Rössler noted that this was problematic for the implementation of the Convention because the involvement of experts in delegations was not only essential for adequate decision-making on conservation matters and critical to the Convention goal of protecting heritage for future generations, but in fact a requirement under the Convention.

Another focus of the discussions was the Advisory Bodies' procedures for the evaluation of nominations. Dr Barume asked who drew up the evaluation procedures and the list of things considered during the evaluations, and how these procedures could be amended. Ms Buckley explained that the evaluation procedures developed progressively, as the Operational Guidelines developed. However, the Advisory Bodies were always looking to improve their own processes and that much could be changed by the Advisory Bodies themselves without amending the Operational Guidelines. Mr Oviedo added that both IUCN and ICOMOS had their own guidelines as evaluators, which they could change and amend independently without having to obtain the approval of the World Heritage Committee. For example, the Advisory Bodies had recently introduced changes to their own guidance in order to better address issues related to the rights of Indigenous peoples and local communities. These were currently being tested and would be further improved as necessary.

A fundamental piece that was still missing from the evaluation process, according to Mr Oviedo, was an effective system for gathering information about the implications of nominated sites for Indigenous peoples and communities. "We don't have a systematic way of reaching out to a broader audience who can help us gather this critical information," said Mr Oviedo. He underlined that this information needed to be gathered be-

fore the field missions took place, "otherwise it is impossible for the missions to do the job properly". He explained: "If we get intelligence from Indigenous networks and other organizations working on those issues then we can prepare our mission with sufficient information so that they visit with an appropriate background, to check whether the appropriate people are invited to meetings etc. If we don't have that information, there is only so much we can do, because we can only go to the field for a limited number of days, to have consultation meetings and do the evaluations there."

Mr Oviedo said that IUCN was trying to set-up a mailing list of Indigenous and other relevant organizations in order to gather information on sites under evaluation. These organizations would receive a list of the nominations to be evaluated from IUCN, along with some key questions. Mr Oviedo indicated that IUCN had already requested the UN Permanent Forum on Indigenous Issues to assist in gathering this feedback on World Heritage nominations. However, Professor Dorrough said that, in her view, it was not necessarily the responsibility of the Permanent Forum to gather this information. Rather, those specifically responsible for the World Heritage Convention should play the primary and central role. She felt that the Permanent Forum, together with EMRIP and the Special Rapporteur, could play an important and useful role in contributing expertise to revising the Operational Guidelines. However, once an adequate set of operational guidelines was in place relating to Indigenous peoples' well-being and rights, it was the responsibility of the Committee, the Advisory Bodies and the World Heritage Centre to ensure that Indigenous peoples are appropriately consulted and that their rights are recognized and respected in the implementation of the World Heritage Convention. Professor Dorrough proposed that the Committee or the Centre could consider setting-up "an Indigenous World Heritage Fund that brings a cadre of Indigenous experts into the process who can help the Committee, the Centre and others do this important work". ○

INDIGENOUS PEOPLES' EXPERIENCES OF WORLD HERITAGE SITES (1)

Wet Tropics of Queensland (Australia)

The first case study presented in the expert workshop was the Wet Tropics of Queensland (Australia), listed as a natural World Heritage Site in 1989, and presented by **Mr Bruce White**, a Bana Yarralji anthropologist and founding member of the Rainforest Aboriginal Network. Mr White stressed that the World Heritage listing of the Wet Tropics was “an incomplete, impoverished listing”, as only the natural values of the area were recognized. “They forgot the people, who have been living there for possibly up to 100,000 years! This landscape has evolved around people!” Mr White said. Because it is a rainforest area, the Wet Tropics used to be one of the most densely populated areas of Australia, as evident from the large number of Aboriginal languages in the area (there are 18 different language groups). “These days it is not anywhere near as populated as it was when it was under full Aboriginal occupation. The absence of people has meant that the Wet Tropics are losing biodiversity, through the loss of fire regimes, nobody transporting nuts, etc. So we are saying that it is an impoverished listing. They need to include the ecological role played by Indigenous people – they are a part of the ecology as well.”

“Aboriginal people,” Mr White said, “have been trying to get the cultural values included in the World Heritage listing for more than 20 years”. One of the things making it difficult, he said, was the Operational Guidelines of the World Heritage Convention, because they stipulate that “you have to go back for a re-nomination if you expand or alter the values for which an area was listed” and that “the cultural values on their own, independently, need to be of outstanding universal value”. According to Mr White, Aboriginal people have, at every periodic review process, requested that the Aboriginal cultural values of the Wet Tropics be included in the description of the values of the World Heritage Area but were always told by the Wet Tropics Management Authority and the Australian Government that this was not possible “because the Operational Guidelines say that we have to go through a whole re-listing process”.



Photo: Chris Patterson

Kuku Nyungkal people from the northern Wet Tropics of Queensland

The World Heritage listing in 1989 took place without the consent of the region's Aboriginal peoples and was publicly opposed by some of the Aboriginal communities in the area. “They asserted their right to self-determination and insisted that there should be some assessment of the impact that World Heritage listing would have on their right to self-determination,” said Mr White. One community even sent representatives to Paris to convey its objections to the World Heritage Committee. Following the inscription, there were many protests by Aboriginal peoples, who “immediately sought cultural listing as a remedy to the World Heritage listing and tried to get Aboriginal rights included in the new laws, regulations and guidelines that were being created to manage the World Heritage area”.

What worked in their favor in this regard was the 1992 *Mabo* decision of the Australian High Court, which recognized the existence of Native Title in Australian common law and “meant that 80% of the World Heritage Area might be – and in fact was – Aboriginal land”. Mr White explained that the decision had led to 20 years of Native Title claims and court decisions throughout the World Heritage area, and that every single court determination had been in the Aboriginal peoples' favor. The recognition of Native Title rights had led to a greater role for Aboriginal peoples in the management of the World Heritage Area. “Because we obtained rights in law, we obtained Aborigi-

nal representation on the Management Board, commitments to joint management, recognition of the role that Aboriginal people have played in the ecology, and provisions that all activities are supposed to be measured against the impact on Aboriginal tradition,” said Mr White, whilst adding that “the words are there, but it doesn’t actually happen”. In 2005, a substantial agreement was concluded between the 18 Aboriginal tribal groups and the Australian and Queensland governments. This “Wet Tropics Regional Agreement” sets out principles, guidelines and protocols for the meaningful involvement of Aboriginal people in the management of the World Heritage Area. While it is not a binding agreement, it nevertheless “translates into real benefits”, according to Mr White.

Furthermore, now that ever more Native Title claims are being resolved and Indigenous land-use agreements have been negotiated, there is an increasingly large number of Aboriginal Ranger Services working on country, Aboriginal enterprises in tourism, etc. Moreover, “Now that the Aboriginal people are the owners of the land,” said Mr White, “the biggest trend is that they are self-declaring areas as Indigenous protected areas, using the IUCN categories, and then getting Australian Government benefits to manage them as IUCN protected areas. This means that they can choose which category they want, and that the area will be managed with people living in it, instead of being managed as a wilderness.” In closing, Mr White emphasized: “If they were genuine about World Heritage listing, all of these relationships and Indigenous land-use agreements would have been established first. You would get that first, and then you would have a genuine World Heritage Area in front of you, to list!”

Nahanni National Park Reserve (Canada)

The second speaker on the panel was **Ms Laura Pitkanen**, a political/environmental geographer and long-time consultant for the Dehcho First Nations. Her presentation outlined the Dehcho First Nations’ involvement in Nahanni National Park Reserve (Canada), a UNESCO World Heritage Site located in the traditional territory of the Dehcho First Nations. Ms Pitkanen commented, “While the Dehcho First Nations have been actively working for the protection of this area, considerable improvement is needed to ensure the inclusion of the Dehcho First Nations not only as a decision-making partner in the park reserve but also in any processes involving its international designation as a World Heritage Site”.

According to Ms Pitkanen, there was a “lack of consultation and involvement of the Dehcho First Nations in the initial establishment and operation of the park reserve”. However, more recently, the First Nations have taken “a proactive role in negotiating a strong partnership in park planning and management while advocating benefits to the Dehcho people, including economic opportunities.” While these negotiations are ongoing, interim agreements have established a co-management body, the ‘Naha Dehe Consensus Team’, which fulfills its roles and responsibilities in co-managing the park reserve through a consensus decision-making model.

In regard to the World Heritage status, Ms Pitkanen said that the First Nations were marginalized in the process of the park reserve’s designation as a World Heritage Site, in 1978. As a result, “recognition of the area for its cultural values as a living homeland of Indigenous peoples was clearly not advanced by Parks Canada, nor by IUCN or the World Heritage Committee during the nomination process”. IUCN’s Advisory Body Evaluation described the area as an “unexploited natural area” and, as recently as 2006, the World Heritage Committee adopted a statement of significance which describes Nahanni National Park Reserve as an “undisturbed natural area”. Ms Pitkanen criticized the fact that “there is no mention of any Indigenous values and cultural heritage in any of these designations” nor of “Indigenous resource use and land rights”.

At the same time, Ms Pitkanen made it clear that World Heritage status had been helpful to the Dehcho First Nations in their efforts to protect ecologically and culturally sensitive lands from oil and gas, mining and other developments that could negatively affect their rights and interests. “The World Heritage Site designation has undoubtedly been beneficial in helping the Dehcho First Nations to protect the South Nahanni Watershed by bringing international recognition to the region,” said Ms Pitkanen. She drew attention to a decision of the World Heritage Committee which “notes with concern that the various mining, mineral, oil and gas exploration activities around the property could have major adverse cumulative impacts on the integrity of the property” and “encourages the State Party of Canada to proceed with the expansion of Nahanni National Park to protect the entire South Nahanni Watershed and the karstlands of the Ram Plateau.”¹⁹ This is in line with the aspirations of the Dehcho First Nations, who, according to Ms Pitkanen, “advocated for the protection of the entire South Nahanni Watershed for over a decade – including a significant expansion of the park boundaries”.

¹⁹ Decision 30COM 7B.22 (2006).



Mr Bijoy, Ms Pitkanen, Mr White, Mr Sing'Oei and Dr Schanche

In closing, Ms Pitkanen called on Parks Canada, UNESCO and the World Heritage Committee to “take concrete action to ensure that the Dehcho First Nations are involved in any further process regarding the Nahanni National Park Reserve and the World Heritage Convention, including any process to recognize the expanded park reserve area as a World Heritage Site”. She further recommended that “the statement of significance must be changed so that the outstanding universal value of the site reflects the Indigenous values and recognizes Dehcho cultural heritage as a vital, living part of the ecosystem of the park reserve. Any new designation or expansion of the World Heritage Site should include the tremendous cultural values and ecological significance of the area for, and as determined by, the Dehcho First Nations rather than be based only on ‘natural’ features that focus on the physical environment and not its vibrant, dynamic and living cultural heritage.”

Western Ghats (India)

The case of the Western Ghats World Heritage Site in India, in particular the experiences of Adivasi (tribal) communities during the nomination process, was discussed by **Mr C.R. Bijoy** from the Campaign for Survival and Dignity, a national Indian platform of tribal and forest dwellers’ organizations. Western Ghats is a serial site consisting of 39 separate sites in the States of Kerala, Tamilnadu, Karnataka and Maharashtra. It was inscribed as a natural World Heritage Site in 2012, although Adivasi organizations had repeatedly called for a deferral of the nomination because they had not been properly informed and consulted and their free, prior and informed consent had not been obtained. Moreover, the proposal did not take into account the Adivasis’ rights to their ancestral lands

under national and international law, and violated these rights in significant ways. The World Heritage Site is home to about one hundred thousand Adivasis from at least 29 Adivasi tribal groups (“Scheduled Tribes”), four of whom are officially classified as “particularly vulnerable tribal groups”.

Adivasi organizations voiced their concerns and opposition to the World Heritage nomination during IUCN’s field evaluation in 2010 as well as in two joint submissions of Indigenous organizations to the UN Permanent Forum on Indigenous Issues and the World Heritage Committee (in 2011 and 2012).²⁰ In 2011, IUCN recommended that the nomination be deferred, noting a need for increased engagement with stakeholders and participatory governance. Lobbied by India not to follow IUCN’s recommendation, the World Heritage Committee referred (rather than deferred) the nomination, which meant that only some additional information was required and the nomination could be resubmitted to the following (2012) Committee session for examination. Mr Bijoy said that this was a politically motivated decision, “added evidence that the Committee does not actually base its decisions on any factors other than politics”, although the Committee did call on India to increase its engagement with stakeholders and foster participatory governance approaches. It also requested that India review the scope and composition of the proposed site to take into account the recommendations of the Western Ghats Ecology Expert Panel (WGEEP).

²⁰ “Joint Statement on continuous violations of the principle of free, prior and informed consent in the context of UNESCO’s World Heritage Convention” (2011); “Joint Submission on the lack of implementation of the UN Declaration on the Rights of Indigenous Peoples in the context of UNESCO’s World Heritage Convention” (2012).

The WGEEP, a panel of scientists appointed by the Indian Ministry of Environment and Forests (the same Ministry that prepared the World Heritage nomination), issued its final report in August 2011. In regard to the World Heritage proposal, the panel said that the exclusive dependence on government agencies for fine-tuning the proposal and deciding on management regimes was inappropriate and that greater input from and participation of the local communities was necessary. The WGEEP also underlined the need to “overcome the serious and quite genuine objections raised at the UN Permanent Forum on Indigenous Issues to the Indian proposals” (referring to the 2011 Joint Statement on continuous violations of the principle of free, prior and informed consent).

The Ministry of Environment and Forests tried to bury the WGEEP report and initially refused to put it in the public domain. Although it had to release it in May 2012 following a court order, the Ministry declared that the report had not been formally accepted and declined to discuss it publicly. In the revised nomination (“additional information”) submitted to UNESCO in February 2012, which was also not made public, the Indian Government ignored the WGEEP report and falsely claimed that the panel had not made any recommendations relevant to the scope and composition of the proposed World Heritage Site. Although Adivasi organizations, as well as IUCN, again called for a deferral of the nomination, the World Heritage Committee inscribed Western Ghats on the World Heritage List in June 2012.

Mr Bijoy talked in some detail about the legal regime applicable to the World Heritage Site. He said that all 39 sites were forest areas administered by the Forest Department and that the World Heritage nomination dossier identified the following laws as constituting the legal regime governing forests: the 1927 Indian Forest Act; State Forest Acts; the 1972 Wildlife (Protection) Act; and the 1980 Forest (Conservation) Act. However, the nomination dossier failed to mention the 2006 Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act. The Forest Rights Act acknowledges historical injustices to forest-dwelling Adivasis and recognizes individual, collective and community rights to ancestral lands in forests. It establishes the community as the statutory authority to determine these rights; govern and manage forests; protect wildlife and biodiversity; and preserve and protect cultural and natural heritage. It also establishes that community consent is mandatory for the creation of ‘inviolable’ areas and for any diversion of forest land or development projects.

Mr Bijoy said that, due to resistance from the forest bureaucracy, the Forest Rights Act was not being implemented in

Tamilnadu and was being only poorly implemented in the other states. As a result, anger and unrest were spreading among the forest population. The WGEEP, too, underlined in its final report that the Forest Rights Act “has yet to be implemented in its true spirit and the State Forest Departments to be alerted to the fact that implementation of this act is needed for future forestry governance”. Mr Bijoy called the absence of any mention of the Forest Rights Act in the World Heritage nomination a “deliberate attempt to keep out laws that are in force and to project laws that are no longer applicable”. The nomination had violated the Forest Rights Act by not recognizing the customary boundaries of the Adivasi villages and by denying the statutory authority of the Adivasi communities over their ancestral lands. The proposed governance and management structure for the World Heritage Site was “in blatant violation of the forest-related laws,” Mr Bijoy said. “The World Heritage Site is an instrument to violate laws, deny rights and perpetuate the hegemony of the forest bureaucracy,” he concluded. He called for the establishment of a mechanism to assess and monitor the extent to which World Heritage nominations and the evolving governance systems of World Heritage sites were in compliance with international instruments such as the UN Declaration on the Rights of Indigenous Peoples or ILO Convention No. 169 (Indigenous and Tribal Peoples Convention, 1989).

Várjrat Siida: a potential Saami World Heritage Site (Norway)

Dr Audhild Schanche, Senior Advisor to the Saami Parliament in Norway, talked about Várjrat siida, a possible Saami World Heritage Site which the Saami people are promoting for a place on Norway’s Tentative List of potential World Heritage sites. The envisaged site consists of four interrelated localities all lying within Várjrat siida, the old territory of the Varanger Saami and a core area in the formation of Saami cultural traits. The four localities contain a large number and variety of ancient Saami monuments, including habitation sites, an exceptionally large burial ground, sacred stones, sacrificial stone rings, and trapping systems for wild reindeer. According to Dr Schanche, they are “a unique testimony to the durability and robustness of a hunting and fishing culture in Arctic Europe”.

The proposal was originally developed by the Nesseby municipality, a small coastal Saami community, and the Saami Parliament in Norway, and was further refined in 2010 by an expert group appointed by the Saami Parliament. The initiative is supported by the reindeer herding organizations in the area, the three municipalities involved, the county of Finnmark, the

Saami Council and the Saami Parliamentarian Council, the joint body of the Saami parliaments in Finland, Sweden and Norway. Dr Schanche said that the Saami had identified the following trend as a potential obstacle to the success of their initiative: “While it is accepted that there may be more than one World Heritage Site within a national state, there is a tendency to think that if one site includes part of an Indigenous people’s heritage, that will be sufficient, the theme will be covered... a Saami site is seen as representing everything Saami through time and space.” Dr Schanche criticized the fact that this “does not take into account the fact that the actual people may have a deep and varied cultural history inscribed in a vast and diverse territory” and suggested that “behind this tendency may lay an inheritance from the days when Indigenous peoples were seen as lacking in history and having static and uniform cultures. Related to this is perhaps the notion that Indigenous cultural monuments are vague and unnoticeable. They are seen as part of the ‘wilderness’ rather than as physical expressions of remarkable cultural achievements... However, what is vague or recognizable as cultural monuments has very much to do with knowledge on how and where to look.” Dr Schanche underlined the fact that the Saami must “hold on to the proposed site’s remarkable, universal values not covered elsewhere on the list, or elsewhere in the world. We want to share the site with the world, and we are willing to take the responsibility for doing just that.”

In conclusion, Dr Schanche remarked that “the present World Heritage Committee requirement, that ‘States Parties are encouraged to prepare their Tentative Lists with the participation of a wide variety of stakeholders,’²¹ is not adequately reflecting the international standards for Indigenous rights. Nor does it sufficiently include the possibility that the initiative comes from below, from the Indigenous peoples themselves, rather than from the top. To recommend free, prior and informed consent at the tentative listing stage would certainly be positive in many cases, but it would still put the Indigenous people in a passive, receptive role, rather than an active, promoting role. In our case, we are the ones that seek consent and provide information. We are, so to speak, practising self-determination. I have no suggestion for an alternative phrasing of a requirement, but I recommend it includes situations similar to ours.” Dr Schanche emphasized that the States Parties to the Convention needed to “make sure that the Indigenous peoples themselves can be active in promoting sites and also in defining what the values of the sites are.”

21 *Operational Guidelines for the Implementation of the World Heritage Convention*, para. 64.



Korir Sing'Oei, Centre for Minority Rights Development Institute (CEMIRIDE)

Kenya Lake System in the Great Rift Valley (Kenya)

The final speaker of the day was **Mr Korir Sing'Oei**, a human rights lawyer and former Director of the Centre for Minority Rights Development Kenya (CEMIRIDE), who talked about the 2011 inscription of the Lake Bogoria National Reserve in Kenya on the World Heritage List (as part of the “Kenya Lake System” World Heritage Site). He explained that the Kenyan Government had established the Lake Bogoria Reserve in 1973 and, in doing so, had “perpetrated the eviction and the forced removal of an Indigenous community, the Endorois, today numbering over 60,000 people”. He said that “between 1973 and around 1990, the Endorois lived outside their ancestral land in situations of great suffering, poverty and destitution. They had lost their pastoralist and nomadic enterprises, they had lost their livelihoods, and they had become disconnected from their cultural sites”. In the 1990s, the Endorois initiated a legal process to reclaim their ancestral land, mounting cases in courts in Kenya. After various unsuccessful attempts, the community took the matter to the African Commission on Human and Peoples’ Rights (ACHPR) in 2003, challenging the forced annexation of Endorois territory and alleging violations of their rights to property, to culture, to religion, and to natural resources, among others. In 2009, the ACHPR reached a decision in favor of the Endorois, finding Kenya in violation of various provisions of the African Charter on Human and Peoples’ Rights, including the right to property, and recommended that Kenya “recognise rights of ownership to the Endorois and restitute Endorois ancestral land” around Lake Bogoria.²²

22 ACHPR, Decision on Communication 276/2003, Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya, 27th Activity Report, 2009, Annex 5.



Photo: The Advocates for Human Rights

Kenya Lake System: The Endorois community celebrating the ruling of the African Commission

Mr Sing'Oei, who was one of the lawyers representing the Endorois before the African Commission, said that in 2009, while waiting for a decision from the Commission to be handed down, the Endorois were presented with the information that UNESCO was considering designating Lake Bogoria as a World Heritage Site. They wrote to the World Heritage Centre in June 2009, informing them that there was a land dispute in relation to this property and that the Endorois had not been consulted or included in the nomination process. In August 2009, they sent another letter, stating that they had received indication from the African Commission that a decision had been reached in favor of the community, and emphasizing the need to defer a decision on this property. In both cases they received no response. Instead they received a letter from the Kenya Wildlife Service (KWS) indicating that the KWS had received a communication from UNESCO with respect to the Endorois' opposition to the designation of the property, but dismissing the Endorois' entire claim. In June 2011, Lake Bogoria was designated as a World Heritage Site which, according to Mr Sing'Oei, "compounded the situation of the Endorois".

Subsequent to the decision of the World Heritage Committee, Mr Sing'Oei reported, "The Endorois went back before the African Commission, and when we presented the evidence

that UNESCO had made the decision to designate Lake Bogoria as a heritage site, the African Commission produced a resolution, essentially finding that UNESCO was in violation of a decision of the African Commission on Human and Peoples' Rights. In other words, UNESCO was found to be aiding the perpetration of human rights violations that the African Commission itself had condemned." He said that it was regrettable "that it is possible for a process that appears to have excellent goals such as the designation of heritage sites to compound a situation such as that of the Endorois" and asked "whether it was absolutely impossible for the Committee to defer this decision?"

Q&A Session

In the following question and answer session, Ms Tatjana Puschkarsky of the World Wildlife Fund questioned whether it was really necessary to re-nominate natural World Heritage sites under cultural criteria in order to give appreciation to Indigenous knowledge or Indigenous cultural values. She suggested that Indigenous values could be presented in outreach work and presentations to visitors even if a site was not inscribed under cultural criteria. "There is a lot that can be done through communication to give appreciation to In-

digenous values without going through the whole process of re-nominating a site, which is very long and costly,” said Ms Puschkarsky. Mr White commented, “While it may seem a small thing to have Indigenous knowledge valued, to have the role that Indigenous people play in caring for country valued, it has big results. In the 20 years since the Wet Tropics were listed as a natural World Heritage Site, I have seen the last language speakers pass away in nearly all the Aboriginal groups. What we are fighting is a whole management regime that is focused on an impoverished core of natural values only. If they can do something cultural, it is just extra. And when it comes to priorities, it quickly gets sacrificed.”

Dr Nakashima commented that the whole concept of natural sites was based on the outdated paradigm that there were virgin places in the world where there are no people (i.e. ‘wilderness’). He emphasized that it was impossible to continue to hold to this paradigm today, considering the widely recognized fact that 80% of the world’s biodiversity exists in Indigenous territories. However, this paradigm had been entrenched in the World Heritage Convention and continued to have life through the implementation of the Convention. Dr Nakashima reflected that even when it was recognized that a particular site was in the territory of an Indigenous people, it normally became designated as a natural site because the Indigenous cultural values were not considered to be ‘outstanding’ and ‘universal’. “I think that, through the process of designating it only as a natural site, you contribute to a dispossession of the people whose homeland it is or was,” Dr Nakashima said.

“So through the implementation of the Convention, because of the built-in divide between nature and culture, you have these perverse outcomes.” He said that there had to be a paradigm shift in thinking that might need to be captured in the Operational Guidelines. For instance, a central question in the evaluation of nominations of natural sites should be in whose homeland or territory the sites are located.

The discussion then focused on the inscription of Lake Bogoria on the World Heritage List. Dr Nakashima said that this had become an emblematic case and that it was important to understand what went wrong in the listing process, in order to be able to propose measures that might prevent this kind of error from happening again. He noted that the site had been inscribed even though information about the African Commission’s decision in the Endorois case had been sent to UNESCO, and IUCN had also been informed. Mr Oviedo said, however, that “IUCN never received that information”. In reply to a question as to why the information received by the World Heritage Centre had not been forwarded to IUCN, Dr Rössler explained that, in accordance with the procedures, the information had been forwarded to the State Party with questions. Later, the World Heritage Committee, as the decision-making body, was informed of both the concerns and the reaction of the State Party. On the basis of that information, it had decided to approve the nomination. Similarly, Dr Rössler said, the Committee had been informed by the Secretariat about the concerns received in relation to the nomination of Western Ghats but had decided to inscribe the site nevertheless. ○

INDIGENOUS PEOPLES' EXPERIENCES OF WORLD HERITAGE SITES (2)



Dr Barume, Ms Cariño, Dr Erni, Dr Rodriguez, Mr Teilus and Mr Oviedo

Canaima National Park (Venezuela)

The first speaker on Friday morning was **Dr Iokiñe Rodríguez** of the Venezuelan Institute for Scientific Research (IVIC), who spoke about the experiences of the Pemon Indigenous people in Canaima National Park in Venezuela. Dr Rodríguez said that the name of the Park, which means “spirit of evil” in the Pemon language, was a highly inappropriate name from a Pemon perspective and represented the conflictual relationship between the Indigenous people and the National Park. Established in 1962 in the ancestral homelands of the Pemon, the Park is today inhabited by approximately 25,000 Pemon who continue to rely on its resources for their traditional livelihood activities.

In 1994, Canaima National Park was inscribed on the World Heritage List because of its outstanding natural features, in particular the unique table mountains (*tepuis*). Dr Rodríguez noted that the World Heritage Committee had inscribed the site despite knowing that the Pemon had not been consulted during the nomination process, a fact that was acknowledged in the Committee’s decision.²³ The Park was listed as a natural site, although it would “fit perfectly into the cultural landscape

category”, as Dr Rodríguez emphasized. “The landscape is of huge cultural significance for the Pemon. All the features of the landscape have an origin described in myth, and all the *tepuis* have sacred meanings.” Moreover, “It is a landscape that has been shaped by a combination of natural and human factors such as the Pemon’s use of fire,” said Dr Rodríguez. While Pemon fire practices have “historically been seen as a bad thing by resource managers and there have been huge attempts to eliminate fire from this landscape”, Dr Rodríguez emphasized that “what the Pemon do is actually an ancestral sustainable way of using fire” and stopping such use of fire “has a detrimental effect on the landscape”.

There is no Pemon participation in official park management and decision-making, Dr Rodríguez said. “They had no role in the creation of the park, there are no shared institutional decision-making bodies, and there was no consultation in the zoning plan that exists for the eastern sector of the park. The only role that the Pemon play in park management is as park guards and fire fighters.” There was an attempt in 2006 to establish a co-management scheme for the park through a GEF World Bank project, Dr Rodríguez said, “but when the project was about to start, the Government decided to pull out”.

23 Doc. WHC-94/CONF.003/16, p. 48.

Dr Rodriguez noted that the history of the park had been full of conflicts between the Pemon and the Venezuelan government, related to a lack of recognition of Indigenous territorial rights, large-scale development projects, fire management, tourism and other issues. One of the main conflicts which Dr Rodriguez talked about in detail because UNESCO had played an “important but very lamentable role” in it, related to the building of a power line through the Park in the late 1990s. The Pemon were greatly concerned that the project would promote uncontrolled economic development around the park (mining, tourism) and that this would have adverse impacts on their culture and the park’s cultural landscape. The Pemon contacted UNESCO hoping that it would intervene in their favour and place the park on the List of World Heritage in Danger.

In 1999 a UNESCO/IUCN monitoring mission visited the area but failed to consult the Pemon during their visit. “The visit to the site was carried out by helicopter and UNESCO was basically taken around by the State,” Dr Rodriguez said. “There was a lack of freedom of movement through which to be able take the visions of other actors into account.” The Pemon, however, “made a huge effort and went to Caracas to meet the UNESCO mission, to make their views heard”. In its report, the mission noted the strong opposition of the Pemon to the power line but concluded that it did “not interfere with the main values for which this site was inscribed on the World Heritage List” and that In-Danger listing was not justified. Dr

Rodriguez said that UNESCO’s intervention in the conflict led to a “loss of UNESCO’s credibility and reputation as an organization that protects sites of universal value” and that in Venezuela “UNESCO is seen as an institution that failed to do what it had to do”. The power line, she said “actually ended up resulting in what the Pemon had feared: it was the beginning of a large-scale development model for the area. There has been a significant increase in mining activities in the surrounding areas of the park.”

Dr Rodriguez reported that an important Pemon leader had told her: “With respect to how we and our lands benefit from World Heritage status... I think in NO WAY.” Dr Rodriguez believes that “because of the poor relationship that the Pemon have had with it since it was established, the existence of the World Heritage Site is of no practical relevance to them. The fact that the site was nominated only on account of its natural values limits the extent to which they can relate to and benefit from it. The priority given to protecting ‘natural universal values’ over ‘cultural’ ones turns the Pemon into ‘threats’ to the site, not only distorting their role in managing their land but also preventing opportunities for engagement with the World Heritage system.” Dr Rodriguez felt that “relisting Canaima as a mixed cultural/natural site could represent an improvement by allowing the World Heritage Convention to become more meaningful for the Pemon, although I don’t know if the Pemon would actually be keen on using UNESCO as a platform for their cultural rights”. Another way of making the World Heritage Convention more relevant to the Pemon, Dr Rodriguez



Photo: Kumarakapay Community Archives

Pemon demonstration against the power line project in Canaima National Park, Caracas, 1999



Michael Teilus with the new management plan for the Laponian Area

suggested, could be for UNESCO to support the Pemon's own land management initiatives, such as their Territorial Management Plans and their "Life Plans".

Laponian Area (Sweden)

Mr Michael Teilus, Chair of the Management Board of the Laponian World Heritage Area in Sweden, talked about the experiences of the Saami within the World Heritage Area and the recent establishment of a new management structure including a management board with a Saami majority. Mr Teilus explained that the Laponian Area, the largest protected area in Europe, is a 'mixed' World Heritage Site that was included on the World Heritage List because of both its natural values and the Saami reindeer herding culture. Mr Teilus said that while there were no Swedes living inside the site, the area had long been inhabited by Saami reindeer herders who nowadays keep around 65,000 reindeer in the World Heritage Area. "We are there and we are going to stay there and protect and develop the balance between man and nature," he pledged. "It means we will keep on demonstrating our long-term sustainable land use while continuing with our traditional reindeer

breeding and other Saami enterprises. Reindeer herding is the basis of our culture, including our language."

Mr Teilus talked about the process by which the new management framework had been discussed and finally agreed after 12 years of difficult negotiations involving the Saami reindeer herders, government agencies, local municipalities and others. He said that this process had been a "repair work" that happened after the inscription on the World Heritage List because, at the time of nomination, the Saami who were actually living in the area were not consulted, although "the Saami Parliament was involved a little bit". Mr Teilus explained that to support their demands for a leading role in the future management of the Laponian Area, the Saami "brought international documents to the discussions and international instruments that Sweden had signed. We found that the World Heritage Convention and the operational guidelines did not give very much support. We concentrated on the set of human rights conventions, the set of environmental conventions, Agenda 21, the Rio Declaration, the UN Declaration on the Rights of Indigenous Peoples and some UNESCO and Council of Europe Conventions. Our thought was that all the beautiful ambi-

tions and words in the documents have to land somewhere, even at a spot along the Arctic Circle.”

The negotiations led to “mutual respect between us and the majority society”, Mr Teilus noted and, in 2011, agreement was finally reached on a new management regime for the Laponian Area, “local management with a Saami majority in the steering functions”. The management board for the World Heritage Area consists of nine persons: five Saamis, two representatives of the municipalities concerned, one from the regional County Administration, and one from the Swedish Environmental Protection Agency (SEPA). The new management organization (“Laponiatjuottjudus”) will “take over all public services from the national agencies and run all practical things,” said Mr Teilus. “Everything with full responsibility and with absolutely higher ambitions compared to those of the Government. We have just recently, in September, employed our first site manager ever, a Saami woman. We have not solved all the problems, questions and concerns, but we have created a platform which consists of many parts and is based on combined Saami and Swedish values and recognition of traditional knowledge for *in situ* conservation”.

Thungyai - Huai Kha Khaeng Wildlife Sanctuaries (Thailand)

The case of the Thungyai-Huai Kha Khaeng Wildlife Sanctuaries in Thailand, listed as a natural World Heritage Site in 1991, was presented by **Dr Christian Erni**, Asia Programme Coordinator at IWGIA. Dr Erni explained that the World Heritage Site is composed of two contiguous wildlife sanctuaries, Thungyai Naresuan and Huai Kha Khaeng, containing an enormous variety of species and almost all the forest types of South-East Asia. The World Heritage area is home to the Pwo Karen people, one of the Indigenous peoples of Thailand. The UNESCO website states that “some 3,800 tribal people live within Thung Yai, whereas there is no resident population within Huai Kha Khaeng”. According to their own oral history, the Pwo Karen have lived in the park area for at least 250 years. Their residence was officially recognized by King Rama III in the early 19th century. Such records are important in Thailand, Dr Erni noted, where it is often argued that people in the forests “are all illegal immigrants coming to destroy our forests” and where many Indigenous people do not have citizenship. Dr Erni explained that the Pwo Karen are, or have been until recently, subsistence farmers employing a form of rotational farming that has been “intensively researched and

found to be a very sophisticated and highly sustainable form of forest land-use management”.

The idea of nominating the wildlife sanctuaries as a World Heritage Site came from officials in the Royal Forest Department (RFD) in the 1980s, Dr Erni said. A planned hydro-electric dam was threatening the core area of the Thungyai Naresuan Wildlife Sanctuary at that time, resulting in wide public debate. Dr Erni noted that the dam plans involved the relocation of Karen communities but that the interests of the Karen in this regard were represented by NGOs rather than the Karen themselves. “The Karen themselves did not have much of a voice, certainly not in writing the proposal for the World Heritage Site,” Dr Erni said. In fact, “the Karen communities were not in any sense involved” in the nomination process.

Dr Erni highlighted the fact that the World Heritage area “has a legacy of forced removal”. In the 1970s, shortly after the Huai Kha Khaeng Sanctuary was created and when the Sri Nakarin Dam was built, the Karen villages in the sanctuary were removed. Then, in the 1980s, most of the villages of the Hmong, another Indigenous group, were removed from the two sanctuaries. At the time of the World Heritage nomination in 1990, Dr Erni said, “There were still four Hmong villages and some Thai villages in the buffer zone of Huai Kha Khaeng, and around 16 Karen villages in Thungyai. Their imminent relocation was announced in the nomination documents. This was noted – but not criticized – in IUCN’s evaluation of the nomination and accepted by the World Heritage Committee without comment.”

While the remaining Hmong and Thai villages were relocated in the early 1990s (after the sanctuaries had become a World Heritage Site), the plans to remove the Karen from Thungyai provoked strong public criticism. NGOs argued that the Karen should not be relocated, recognizing their ecological role in managing the resources, and public perceptions started to shift. “When they saw they could not throw the Karen out,” Dr Erni said, the RFD “started to put restrictions on their land use practices, most crucially a prohibition on the use of fallow areas older than three years”. This prohibition led to the weakening of the farming system, leaving the people “experiencing a drop in soil fertility, a drop in yields, and economic hardship”. Dr Erni emphasized that the threat of relocation remains today, as is evident from the Thai government’s 2003 periodic report to UNESCO, which states: “If Karen villages inside the WH zone exert increasing demands on natural resources in the park, relocation will be conducted.”

Dr Erni contrasted the uneasy truce in Thungyai with the situation in Kaeng Krachan National Park a few hundred kilometers to the south, “where there is a fully-fledged war going on”. In this park, Dr Erni explained, Karen communities have recently been subjected to “the burning of houses, the confiscation of tools and weapons, the killing of chickens, and looting and stealing of property, by both the military and the park guards”. When the National Thai Human Rights Commission and the Lawyers’ Council of Thailand intervened on behalf of the communities, the park chief filed a legal case against these organizations based on Thailand’s *lese majeste* law, which protects the King from slander. They are charged with preventing a project to grow food for wild elephants, supposedly a royal initiative. The *lese majeste* law is increasingly used to silence opposition politicians and, in this case, was used to try to silence the National Human Rights Commission and the Lawyers’ Council. The case is still pending. Despite all this, in July 2011 Thailand listed Khaeng Krachan on the tentative list of potential future World Heritage sites.

Dr Erni then addressed the legal framework applicable to national parks in Thailand, including the National Park Act of 1961 and the Wild Animal Preservation and Protection Act of 1960, both of which are used to harass communities in parks. Dr Erni highlighted Section 16 of the Park Act, in particular, as it “prohibits a whole series of activities, including living there, doing agriculture and collecting forest products. Basically anything a person who lives in the forest and depends on the forest will do is illegal.” However, actions taken under these national laws are in violation of Thailand’s international human rights obligations, Dr Erni noted. This was most recently highlighted by the UN Committee on the Elimination of Racial Discrimination (CERD) which, in 2012, said of Thailand that “...various forestry and environment protection laws may have a discriminatory effect on ethnic groups living in forests. The Committee is also concerned that it has not been assured how their free and prior informed consent is guaranteed in decision-making processes affecting them”. CERD urged “the State party to review the relevant forestry laws in order to ensure respect for ethnic groups’ way of living, livelihood and culture, and their right to free and prior informed consent in decisions affecting them, while protecting the environment.”²⁴

24 Concluding observations of the Committee on the Elimination of Racial Discrimination: Thailand, 24 August 2012, UN Doc. CERD/C/THA/CO/1-3. CERD oversees States Parties’ compliance with the *International Convention on the Elimination of All Forms of Racial Discrimination*.



Photo: Bangkok Post/Kaeng Krachan National Park Report

Kaeng Krachan National Park: A Karen shelter goes up in flames after being torched by Park officials in a 2011 eviction drive

Dr Erni noted that there was already a potential basis for such legal reform in Thai law. Forestry laws have largely not yet been brought into line with the 2007 Royal Thai Constitution, which provides specifically for the right of people to remain in national parks. Dr Erni pointed out that the Constitution “supersedes the forestry law so the reform suggested by CERD could easily be done, there is a constitutional basis”. He also noted the positive experiences in Thailand with the Joint Management of Protected Areas Project (JoMPA), which “could be used to develop a new approach”. Additionally, there is a 2010 Thai Cabinet Resolution on “Recovering the Karen Livelihood in Thailand”. This resolution, Dr Erni explained, “recommends the establishment of ‘special cultural zones’ where traditional knowledge and practices and, in particular, the rotational farming of the Karen can be practised and passed on to future generations”. One sub-district in Thungyai has been identified as a pilot area in this resolution. Interestingly, the resolution also recommends “promotion of the Karen rotational farming system to become a world cultural heritage”. According to Dr Erni, this relates to a possible nomination under the 2003 Convention on Intangible Cultural Heritage. Noting that the 2003 Convention recognizes “the deep-seated interdependence between the intangible cultural heritage and the tangible cultural and natural heritage”, Dr Erni suggested that there may be “a possibility to turn the conflict area of Thungyai into a pilot World Heritage Site in which interaction between the two conventions could be achieved.” This might then open the path towards a genuine rights-based approach, something that is still lacking in Thailand.



Albert Barume, International Labour Organization (ILO)

Kahuzi-Biega National Park (DR Congo)

The next speaker was **Dr Albert Barume**, Senior Specialist on Indigenous and Tribal Peoples' Issues at the International Labour Organization (ILO) and a member of the ACHPR's Working Group on Indigenous Populations. Dr Barume presented the case of the Kahuzi-Biega National Park in the Democratic Republic of Congo. Kahuzi-Biega National Park is located in a densely populated and conflict-affected area and was originally a forest reserve. The national park was first established in 1970 and initially covered an area of 60,000 ha. In 1975, its size was extended to 600,000 ha. The park is most famous for its population of mountain gorillas which, according to Dr Barume, was the main reason for the park becoming a World Heritage Site in 1980. Since 1997, Kahuzi-Biega National Park has been included on the List of World Heritage in Danger as a consequence of the armed conflict in the region.

Dr Barume explained that the World Heritage area was recognized as an ancestral land of the Batwa Indigenous peoples, one of the "Pygmy" Indigenous peoples found throughout the African tropical forests. However, when the park was designated a World Heritage Site, neither the government's nomination document nor the IUCN evaluation mentioned the land use and ownership of the Batwa as a factor affecting the site. The evaluation document from IUCN, which was extremely short despite dealing with an incredibly complex situation, "indicated poor governance as the key problem facing the national park, but did not mention Indigenous peoples and communities living inside the park," Dr Barume noted. "How come the whole issue of land dispossession did not appear in the evaluation report," he asked, "considering that this is a park that was initially established with 60,000 hectares and

then expanded to 600,000 hectares in the middle of a densely populated area?"

Since its designation as a World Heritage Site, Dr Barume said, there had been numerous evaluation and monitoring reports and extensive communications between the Congolese government, UNESCO and IUCN, leading to the site being listed as World Heritage in Danger, "but there was absolutely no mention of the land dispossession suffered by the Batwa in any of those communications". Also missing from those communications and reports, he added, was any reference to the relevant African regional human rights framework and the rights of peoples guaranteed under the African Charter on Human and Peoples' Rights (Articles 19-23).

Dr Barume emphasized that: "Kahuzi-Biega really illustrates how a World Heritage Site can co-exist with serious human rights violations." He said that there had been a "mass removal of Batwa Indigenous peoples from their ancestral lands without compensation" that had continued through the 1960s, 70s and 80s, up to when the site was transformed into a World Heritage Site. "It is estimated that about 6,000 Batwa were evicted," he said. The human rights violations are not limited to these relocations, but also include "the policy of intimidation" used by the government against the Indigenous peoples. "The government and its supporters embarked on a policy to intimidate the Indigenous peoples who had been evicted, so that they could not even think of coming back. There were judicial harassments, arbitrary arrests and detentions, burning of houses..." In one famous incident, one of the silverback gorillas was found dead and the Congolese government arrested more than 100 Batwa, who were held for four and a half months without any sort of questioning or charges. This case was one illustration, Dr Barume explained, of the "policy and strategy behind the National Park. The authorities and the management of the National Park had a strategy to set a precedent with judicial harassment so that no other Indigenous Batwa would ever dare to go back into the National Park." Dr Barume went on to explain that, as a result of the National Park being in a conflict-stricken area, "there are cases, cases documented by international organisations, of rape of Batwa women and killing of Batwa people within the National Park, but there is absolutely no report by the Park management about what is going on". He also said that the Batwa living in the buffer zone around the park were living in extreme poverty, as demonstrated in many reports.

One of the conclusions that could be drawn from this particular case, Dr Barume said, was that "World heritage status

can actually exacerbate the human rights situation of Indigenous peoples". In the case of Kahuzi-Biega National Park, he explained, "World Heritage status strengthened the government's claim over the lands and weakened that of the Batwa Indigenous peoples." "World Heritage status," he said, "has become an extra argument in the hands of the government. It also brought new allies to the government. When an Indigenous community, characterised as politically marginalized, politically weak and numerically inferior, is actually discussing with powerful actors such as the State or conservation agencies, the extra heavy weight of UNESCO and World Heritage status actually makes any possible land claim almost impossible."

Dr Barume indicated that there had been some recent improvements. In particular, the new management plan for the first time acknowledges the land dispossession suffered by the Batwa as an issue, although Dr Barume underlined the fact that it "does not take a human rights-based approach by upholding international standards such as FPIC and the UNDRIP as its key legal framework". Without such a framework, he pointed out, attitudes towards assisting the Batwa were based on charity, not rights: "Whatever feels good for the government, whatever feels good for the protected area managers – whether it is employing a couple of Batwa, sharing 1% of what they earn with them, or having a school." This approach "is a complete negation of the human rights-based approach," Dr Barume said. "The Batwa should be put in a position where they can claim their rights rather than being dependent on the charity and goodwill of the government."

Noting that: "UNESCO's recommendations to the government regarding the security in and around the park are reputed to be taken seriously," Dr Barume asked why UNESCO was not putting similar pressure on the Congolese government to redress the historical injustices suffered by the Batwa Indigenous peoples. He finished with three key recommendations. First, that the Batwa be formally recognized as rights holders over Kahuzi-Biega National Park. Second, that UNESCO and the World Heritage Programme formally recognize the UNDRIP and the work of the African Commission on Human and Peoples' Rights as legal frameworks for managing World Heritage sites involving Indigenous peoples in Africa. Such recognition, Dr Barume noted, would be an important first step in the implementation of a human rights-based approach. His third recommendation was that a specific mechanism be established to monitor the human rights situation of Indigenous peoples within World Heritage sites affected by conflict.

Rice Terraces of the Philippine Cordilleras (Philippines)

The case of the Rice Terraces of the Philippine Cordilleras was presented by **Ms Jill Cariño** of the Cordillera Peoples Alliance, a federation of grassroots peoples' organisations in the Cordilleras. Ms Cariño explained that the World Heritage Site consists of five clusters of rice terraces in the province of Ifugao, which cover whole mountains and were built by the Ifugao Indigenous peoples as long as 2,000 years ago. As the Outstanding Universal Value statement of UNESCO states: "The Ifugao Rice Terraces epitomize the absolute blending of the physical, socio-cultural, economic, religious, and political environment. Indeed, it is a living cultural landscape of unparalleled beauty."

Introducing the Indigenous peoples of Ifugao Province, Ms Cariño explained that there were four Indigenous groups, each of whom had a distinct dialect. Many of the people in Ifugao are impoverished, Ms Cariño said. In 2000, Ifugao was ranked the fourth poorest province in the Philippines with a rate of poverty of 55.6%. More than half of the employed population (69%) were working in the agricultural sector, most others in industries and services related to the tourism industry. Ms Cariño explained, "The people look at the rice terraces as a way of life and a source of livelihood and the people see themselves as a part of the ecosystem." She underlined the fact that, from the viewpoint of the Indigenous peoples, "the rice terraces don't stand alone, they are part of an ecosystem which has different land uses in the whole territory" and she described the integrated management system used to protect the terraces and the other ecosystem elements, such as the private forests (*muyong*) and communal forests above the rice terraces, which serve as watersheds for the terraces. "The rice terraces are usually clan- or family-owned, managed and maintained, and are passed on from one generation to the next," Ms Cariño said. Families grow rice as a staple food, although the rice produced is insufficient to meet the year-round needs of the family.

Ms Cariño then provided a brief history of the World Heritage Site. Even before they were declared World Heritage, she noted, the Philippine government promoted the Ifugao rice terraces (in particular the Banaue terraces) as a major tourist destination. Presidential Decree No. 260 of 1973 "identified the Ifugao Rice Terraces as a national landmark because of its high cultural value and as an irreplaceable treasure of the country, so tourists were starting to come in as early as the 1970s." In 1995, the terraces were inscribed on the



Photo: Adi Simonov

Ifugao Rice Terraces, Batad

World Heritage List as a living cultural landscape. However, as Ms Cariño explained, “Just four years after this, in 1999, the Ifugao Rice Terraces were included on the list of the 100 most endangered sites of the World Monument Watch and soon after, in 2001, the World Heritage Committee decided to inscribe the rice terraces on the List of World Heritage in Danger.” Since then, Ms Cariño said, “There have been a series of reactive monitoring missions that were carried out from 2001 to 2011,” which identified major conservation issues and threats, made recommendations on how to improve conservation and assessed the progress in their implementation. While the Ifugao Rice Terraces were formally removed from the List of World Heritage in Danger in 2012, Ms Cariño emphasized that problems remained and that the steady deterioration of the rice terraces was continuing.

The reasons for the steady deterioration of the rice terraces, Ms Cariño said, “are several, are quite complex.” One reason was the “low rice productivity, which has made the people look for other sources of income.” One such source is wood carving for tourists, leading to over-cutting of woodlots above the rice terraces. This has led to a degradation of the watershed, in turn causing erosion and landslides, problematic irrigation and the presence of pests such as golden snails and giant earthworms. “It is all interrelated,” Ms Cariño said.

The lack of involvement of Indigenous farmers in management and decision-making was also identified as a key issue by Ms Cariño: “The people were not really aware of how or when this became a World Heritage Site or what the World Heritage Site would mean for them... there was no FPIC from the local communities at that time.” After the inscription, little changed: “The national government and later the provincial government were in charge of management and decision-making in relation to the World Heritage Site but the main stakeholders in this ecosystem, the Indigenous farmers who depend on the rice terraces for their livelihood and survival, have only been marginally involved.”

Ms Cariño said that there was “some conflict between Indigenous worldviews and how the World Heritage system looks at it. For example, for the World Heritage system, the focus is really on the rice terraces zone, whereas the focus for Indigenous people is on maintaining the watersheds, and also on the *muyong*, the private forests.” Some conflict has arisen from the fact that the Department of Environment and Natural Resources has tried to institutionalize the traditional system of *muyong*: “The DENR has tried to recognize the system but has actually imposed restrictions on the use of the *muyong* so people now have to get a permit to go to their private forests to collect products and have to make an inventory of all of the species in their private forests before they can even get a permit.” Conflict also occurs between the needs of the Indigenous peoples and



Jill Cariño, Cordillera Peoples Alliance

tourism: “There have been some ordinances made by the local government to prohibit any new construction in the rice terraces area” in order to avoid marring the traditional view. The Indigenous farmers often defy such ordinances “because they need to build more homes for their own community”.

Another problem identified by Ms Cariño was the “unstable government mechanisms for conservation planning and implementation”. A major factor in this is politics, she explained. There has been “a series of bodies to manage and oversee the protection and conservation of the terraces which has been changing with every change in government”. Not only administrative changes at the national level but also “every change of leadership through election at the provincial level leads to a change in the agency which is looking into the management of the rice terraces,” Ms Cariño said. “Of course this has had an impact on the nature, continuity and implementation of conservation activities.”

Ms Cariño noted that the designation as a World Heritage Site did bring “some huge budgetary inputs”, not only from UNESCO for emergency technical assistance but also from the Global Environment Facility. However, the huge sums had “not been felt by the communities themselves in terms of projects or raising their standard of living.” The profile of the province remains one of high poverty. In one sample municipality in Hungduan, “seven out of ten farmers cannot afford to maintain their rice terraces. Their harvests from the terraces are barely enough for their subsistence.” Not only is maintenance too expensive, they have also “not been able to adopt measures to control the earthworms, which really have done quite extensive damage”. Average monthly wages in the rice terraces are extremely low and poverty is part of the reason for the massive out-migration, which has “emptied Ifugao villages of people needed for the cultivation and maintenance of

the rice terraces. Those who are left behind are the elderly or the older parents who do not want to leave the village”. The situation is made worse by “government neglect of basic social services for the communities, which makes life extremely difficult for Indigenous farmers”.

Reflecting on the overall impact of the World Heritage designation of the rice terraces on the lives of the Indigenous farmers who own them, Ms Cariño said that the terraces were viewed “as an essential part of their culture, of their lives, and a basic resource for their survival and a source of income”, regardless of heritage status. The increased tourism and the external funding resulting from the declaration of World Heritage status did not really have a significant effect. The increased funds “have not been felt or enjoyed by the Indigenous farmers and Indigenous farmers have been largely left out of the whole process... There was no involvement in decision-making, no FPIC, no empowerment of the people in the management of the site”. While World Heritage designation did not lead to evictions or displacement of Indigenous peoples, the way in which it was managed “violated their right to decision-making and did not foster self-determined development by the Indigenous peoples themselves”.

Ms Cariño completed her presentation with a list of key recommendations. Specific to the situation in the Ifugao Rice Terraces, she recommended that the main threats causing deterioration of the terraces be addressed directly and that, in doing so, Indigenous knowledge and natural resource management practices be recognized and built upon. She also recommended that “direct participation and representation of the Indigenous farmers who own and maintain the rice terraces in decision-making and management” be ensured. She further stressed the need to ensure “livelihood support and basic social services for Indigenous farmers in order to enable them to restore and maintain the rice terraces”. Finally, Ms Cariño provided a more general recommendation that “the World Heritage Convention and its instruments include mechanisms and measures to ensure FPIC and the direct participation of Indigenous peoples in the management of World Heritage sites”.

Q&A Session

In the question and answer session that followed these presentations, Dr Barume sought clarification as to why IUCN’s evaluation of the nomination of Kahuzi-Biega National Park was so short. Dr Rössler explained that this was due to the

very early listing of the site, in 1980. Until the mid-1980s, the Advisory Bodies did not go on field visits to nominated sites but relied on written information and personal communications in evaluating nominations. In the case of World Heritage sites that were listed very early, often neither the nomination documents nor the Advisory Body evaluations contained information on the Indigenous peoples and local communities living in the respective areas. How to retrace that information now after 30 or 40 years was a problem that needed to be discussed, Dr Rössler said.

In response to comments about the reactive monitoring missions to Canaima National Park and the Ifugao Rice Terraces, Dr Rössler explained that monitoring missions were carried out by the World Heritage Centre and the Advisory Bodies (IUCN, ICOMOS and/or ICCROM) and that all missions had terms of reference. She said that the terms of reference for monitoring missions were very clearly defined and limited to assessing whether a development or situation was affecting the values for which a particular site was inscribed on the World Heritage List. If an area was only inscribed for its natural heritage values, it was therefore difficult for monitoring missions to assess the impacts on cultural values. Dr Rössler also talked about a difficulty in relation to stakeholder meetings during the field missions. While the State Party was always asked to assist the mission team in meeting all stakeholders, Dr Rössler said that “the definition of stakeholder in this system depends on the governments and national or local authorities” and that governments sometimes refuse to organize meetings with certain stakeholders.

Answering a question from Dr Rodriguez regarding the re-nomination of natural World Heritage sites under cultural criteria, Dr

Rössler noted that there had only been very few re-nomination cases, notably Tongariro National Park (New Zealand) and Uluru-Kata Tjuta National Park (Australia), both of which were re-nominated at the request of the Indigenous peoples, who wanted their values to be recognized at the global level. In both cases the successful re-nomination had had major positive impacts on the management of the sites, Dr Rössler said. She cautioned, however, that there might also be cases of re-nominations in which the results were not so positive, and that one would have to carefully assess whether a re-nomination would make sense and was feasible in a given case. One important outcome of a successful re-nomination under cultural criteria, she noted, would be that monitoring missions had to evaluate proposed development projects against their impact on cultural values.

Another issue that was discussed was the potential nomination of Kaeng Krachan National Park as a World Heritage Site. Mr Oviedo mentioned that IUCN was trying to explore the possibility of taking the results of the Joint Management of Protected Areas (JOMPA) project further and asked whether the lessons from the JOMPA project could be useful in the context of the nomination of Kaeng Krachan. Dr Erni responded that this was very much the case and that the nomination provided a great opportunity to put the lessons learned in the JOMPA project into practice and link them up with the 2010 Cabinet Resolution on Recovering the Karen Livelihood which, among other things, seeks to support, recognize and promote the Karen rotational farming systems. Dr Rössler commented that the fact that Kaeng Krachan was still on the tentative list provided a chance to address these issues and get the Advisory Bodies and UNESCO involved before a nomination was submitted. ○

INDIGENOUS PEOPLES' EXPERIENCES OF WORLD HERITAGE SITES (3)

Ngorongoro Conservation Area (Tanzania)

The final panel of the workshop was opened by **Mr William Olenasha**, who talked about the experiences of the Maasai pastoralists in the Ngorongoro Conservation Area (NCA), a World Heritage Site in Tanzania that is contiguous with Serengeti National Park. Mr Olenasha is a Maasai lawyer and legal advisor to the Ngorongoro Pastoral Council.

Mr Olenasha explained that the NCA was created in 1959 following an agreement between the Maasai and the British colonial government by which the Maasai agreed to permanently relinquish their grazing rights in Serengeti National Park in exchange for assurances that they would live in peace and enjoy undisturbed grazing rights in the NCA. The overall size of their grazing area was greatly reduced by this agreement. Mr Olenasha said that his family was among the people evicted from the Serengeti in 1959.

Despite the 1959 agreement, "Life in Ngorongoro was only good for about two decades," said Mr Olenasha. "In the 1970s things started to go bad, as local communities began to experience the true colors of conservation and a series of evictions started to take place." The Maasai were evicted from the Ngorongoro Crater and the Northern Highland Forest and, in 1975, cultivation was outlawed in the Conservation Area. Things became even more difficult for the Maasai when the NCA was inscribed as a natural World Heritage Site in 1979. According to Mr Olenasha, the local communities, who were not consulted during the nomination process, "perceived the inscription as an additional burden because they were already experiencing difficulties due to prohibitive conservation standards". Becoming a World Heritage Site "necessarily meant that higher conservation standards would be imposed". Mr Olenasha said that these fears "became a reality just a few years later when UNESCO began a move to evict pastoralists from the area, because they thought they were a threat to the integrity of the World Heritage Site". According to Mr Olenasha, the local communities "were at the time saved by two consultants, Katherine Homewood and Alan Rodgers, who were commissioned to provide scientific data to back up eviction actions but astonished UNESCO and others by finding that the Maasai were not

a threat to the heritage site but, on the contrary, a very important part of the conservation equation."

Mr Olenasha emphasized, however, that the threat of eviction had never really gone away and had recently been renewed. He said that UNESCO had persistently listed the growing human population among the factors threatening the integrity of the area, and that a recent carrying capacity study by the Government of Tanzania had concluded that the area could only accommodate 25,000 people (compared to a current population of around 60,000). While a 2007 UNESCO monitoring mission called for a more "objective" carrying capacity study to be undertaken, the report of the mission stated that: "Based on professional judgement, the Mission Team assumes that such a study would result in the identification of a carrying capacity figure significantly less than the current population within the conservation area." Mr Olenasha commented: "If UNESCO and the Government of Tanzania have already concluded that the current population of residents has surpassed the carrying capacity, what will happen to the perceived excess population? This is what you call a threat of eviction."

Another consequence of the World Heritage designation, according to Mr Olenasha, was that "pastoralists are no longer allowed to access the crater. They can no longer get water and salt in the crater, because UNESCO says that the cattle are destroying the crater". Mr Olenasha also said that a ban on cultivation was re-imposed in 2009 because of pressure from UNESCO. "Cultivation has repeatedly been described as a threat to the integrity of the area in UNESCO reports," he said, although "only 0.5% of it was under cultivation and the bigger plots were cultivated by employees of the conservation authority, not the pastoralists. The local communities are now totally dependent on food aid for survival, as no alternative source of livelihood was introduced when the ban on cultivation was imposed. However, this food aid is not easily forthcoming and many families in the NCA are now subjected to a state of hunger, malnutrition and destitution." According to Mr Olenasha, the Government of Tanzania justified the re-imposition of the cultivation ban by claiming that the financial



Photo: Omar Gurnah

Maasai in the Ngorongoro Conservation Area

benefits of keeping World Heritage status far outweighed the benefits of subsistence farming.

“In 2010, as if things were not enough, Ngorongoro was inscribed on the World Heritage List under cultural criteria, because of its archaeological and paleontological significance,” Mr Olenasha continued. “The rich pastoralist and Maasai culture was not included in the justification for inscription because, according to UNESCO, it is no longer pure enough to be relevant to the World Heritage Convention.” As usual, Mr Olenasha said, “The local communities were not involved in the inscription process, and when we inquired why we had not been consulted, the response from UNESCO was trademark: ‘Your Government said that you were consulted.’” According to Mr Olenasha, “The inscription as an archaeological World Heritage Site means that pastoralists’ grazing resources will again be reduced to make way for new conservation requirements. Whereas for the Government the inscription is a cause for celebration because it means more tourists, for the pastoralists it is bad news, because it means more restrictions. UNESCO is already saying that pastoralists should be prohibited from accessing some of the archaeological areas.”

“The lack of consultation and participation of local communities in the inscription and during the monitoring visits only serves to complicate the situation,” said Mr Olenasha in closing. “It is no wonder that when UNESCO paid a visit to the Pastoral Council in April 2012 they were not received with kind words and attitudes – it was the second time in history that they had talked to the local communities. UNESCO promised to organize a workshop soon to discuss the chronic problems of the NCA. This workshop is anxiously awaited by the people in Ngorongoro.”

World Heritage in Greenland

Ms Pauline Knudsen, an Indigenous archaeologist from Greenland and curator at the Greenland National Museum, gave a presentation on existing and planned World Heritage sites in Greenland. An integral part of the Kingdom of Denmark, Greenland has enjoyed “Home Rule” since 1979 and Self-Government since 2009. It has a population of 55,000 people, most of whom are ethnic Greenlanders (Inuit/Kalaallit). Ms Knudsen explained that they were the descendants of Inuit people from Alaska, who arrived in Greenland around 800 years ago.

So far the only World Heritage Site in Greenland is the Ilulissat Icefjord, listed as a natural property in 2004 because of its superlative natural features, including a huge ice sheet and a fast moving glacial ice-stream carving into a fjord covered by icebergs. Ms Knudsen noted that the area also contained archaeological sites that were very important for all the Inuit people in the Arctic, including the ancient settlements of Qajaq and Sermermiut.

The ice fjord has always been an important hunting area for the Inuit, as well as the pre-Inuit inhabitants of Greenland who vanished around the 15th century AD. Today sustainable fishing and hunting is allowed in the World Heritage area, which is managed in collaboration between the Greenland Government’s Environmental and Nature Protection Agency, the municipality of Qaasuitsuq, and the Danish Agency for Culture. According to Ms Knudsen, longline fishing and seal hunting in particular are practised in the ice fjord, fishing being an all-year-round practice that is also done from dog sledges in the winter.

The local population of Ilulissat is around 4,500. Their main income comes from fishing, hunting and tourism. Ms Knudsen said that the World Heritage designation of the ice fjord "has led to an explosive increase of tourism in the area" and that the income from tourism derives from hotels, hostels, boat tours, dog sledge tours and handicraft products. There is an Ice fjord Office in Ilulissat which makes arrangements for the locals and tries to involve the population of Ilulissat in the World Heritage Site.

Ms Knudsen also briefly talked about two areas in Greenland that are included in Denmark's Tentative List. For one of these areas, which Ms Knudsen said was tentatively entitled "Arctic Vikings and Inuit Farmers", a World Heritage nomination is currently being prepared. It is a series of sites located in South Greenland and contains ruins of ancient Norse settlements as well as modern Inuit sheep farming settlements. The area continues to be actively used by the sheep farming communities of South Greenland. The other Greenland site on the Tentative List used to be an important inland and coastal hunting area for the Inuit population of Western Greenland and is planned for nomination as a serial cultural landscape. Ms Knudsen said that the nomination could be problematic as there were plans for mining and other large scale industry in the area.

Central Suriname Nature Reserve (Suriname)

Mr Max Ooft of the Association of Indigenous Village Leaders in Suriname (VIDS) spoke about World Heritage sites in Suriname, in particular the Central Suriname Nature Reserve (CSNR). He began with an overview of Indigenous peoples and recognition of their rights in Suriname. There are a number of distinct Indigenous peoples in Suriname, the four most numerous being the Kali'ña (Caribs), Lokono (Arawaks), Trio (Tirio, Tareno) and Wayana. Additionally, there are several Maroon tribal peoples, descendants of African slaves who freed themselves from slavery and established autonomous societies in the forest. Mr Ooft stressed that "there is no recognition whatsoever of Indigenous peoples in Surinamese legislation, nor of Indigenous and tribal peoples' rights. According to the law we do not exist. There are no rights such as land rights or participation rights. According to the law, everyone is equal and we are all individual citizens. As a consequence there is no legal protection of Indigenous peoples' rights in Suriname, and no recourse mechanisms exist."

Mr Ooft then talked about the Central Suriname Nature Reserve, which was established in 1998 at the initiative of Conservation International and UNDP and made a natural World Heritage Site in 2000. The reserve overlaps with the traditional territories of the Trio Indigenous people and the Kwinti Maroon people, and borders the tribal territory of the Sarakama Maroons. When the nature reserve was created, Mr Ooft said, the Trio were consulted internally by Conservation International but not through the government, and "the Kwinti only heard about the establishment of the reserve after it had already been established, when UNDP held what they called 'management stakeholder meetings'. So even though the Kwinti were considered management stakeholders, they were not informed before the reserve was established." The World Heritage inscription of the CSNR, Mr Ooft said, happened without the involvement or consent of the Trio and Kwinti, and in fact without their knowledge. They "learned from the newspaper that the World Heritage Site had been established". The Advisory Body Evaluation by IUCN stated that there were "no inhabitants and no human use" in the reserve.

"The establishment of the nature reserve and the World Heritage Site," Mr Ooft noted, "diminished or at least affected the probability of recognizing territorial rights and resulted in a criminalization of normal traditional Indigenous livelihood activities." According to the law, he said, "Hunting and fishing is illegal in nature reserves, so this makes normal livelihoods illegal." There is no involvement of the Trio and the Kwinti in the management of the CSNR and traditional knowledge is not recognized as 'valid knowledge' for managing the reserve. Mr Ooft said that when the management plan was elaborated, Indigenous representatives were told in a stakeholder meeting that their traditional knowledge and methods of managing the forest could not be considered in the management plan because they were not 'scientific'. The input given by Indigenous and tribal people during the stakeholder meetings was not reflected in the final report and management plan. "The only role that is anticipated for Indigenous and tribal people is that of forest guards trained by the government and the environment organizations," said Mr Ooft.

Mr Ooft also briefly talked about the other World Heritage Site in Suriname, the Historic Inner City of Paramaribo. Paramaribo, the capital of Suriname, was established on top of a pre-Columbian Indigenous village and was the place of the first encounter of Suriname's Indigenous peoples with the colonial invaders, where much blood was shed. Mr Ooft said that the World Heritage nomination took place without the involvement of Indigenous peoples and that, as a result, the World Herit-



Mr Olenasha, Mr Ooft, Mr Amougou, Ms Knudsen, Mr O'Brien and Dr Barume

age Site did not reflect the perspectives of Indigenous peoples and did not respect their cultural and historic values. Indigenous peoples wanted an Indigenous monument to be built in the historic inner city of Paramaribo that would represent their perspective of the first encounter.

At the end of his presentation, Mr Ooft offered a number of general comments and recommendations as to how the implementation of the World Heritage Convention could be improved. He stressed that “discussions on heritage sites cannot be separate from full recognition and respect of Indigenous peoples’ rights to land and self-determination. Indigenous peoples are rights-holders, not just stakeholders, and UNESCO, the World Heritage Committee and the Advisory Bodies must respect this.” In particular, he said, “It must be ensured that full and effective, informed participation of Indigenous peoples and FPIC (free, prior and informed consent) are prerequisites in all World Heritage processes affecting Indigenous peoples, and at all stages.”

Mr Ooft underlined the fact that Indigenous communities had to be informed through their own trusted and representative organizations (who may have access to additional information that the communities do not have), that information had to be

provided in an appropriate language and form, and through appropriate procedures. “For example,” he said, “one workshop is not consultation to us. Effective consultation sometimes means that you have to go from house to house, explain in the local Indigenous language what is being proposed and how that can have both positive and negative impacts, have several community meetings, and meetings between communities. And there must be resources available for that.”

UNESCO, the World Heritage Committee and the Advisory Bodies, Mr Ooft stressed, had to respect and uphold the agreed international norms and standards on the rights of Indigenous peoples in their work, including UNDRIP. “UNESCO and the Advisory Bodies should be much more outspoken in their support for rights-based approaches and UNDRIP,” he said. “The existing operational guidelines of the World Heritage Convention must be revised so that they are consistent with UNDRIP.” He also said that Indigenous peoples “would like to have direct relations with the World Heritage Convention bodies” and suggested that an Indigenous advisory body to the World Heritage Convention should potentially be established.

Kakadu National Park (Australia)

The case of Kakadu National Park, a mixed World Heritage Site in Australia, was discussed by **Mr Justin O'Brien** and **Dr James Warden** of the Gundjeihmi Aboriginal Corporation, an organization established by the Mirarr people, the traditional owners of large parts of Kakadu. A World Heritage Site since 1981, Kakadu National Park is managed jointly by the traditional owners and the Director of National Parks. It is World Heritage listed because of its natural values as well as its Aboriginal cultural values, in particular its thousands of rock art and archaeological sites. While according to UNESCO the area has been inhabited continuously for more than 40,000 years, Dr Warden said that recent excavations indicate that "the archaeology is 50,000 years plus, about 2,000 generations. In contrast, the European presence in Kakadu dates back around five generations, to the late 19th century, although until the 1970s there was very little European impact. The first road was built in 1974."

Mr O'Brien explained that "Kakadu National Park is a place where three forces have met: uranium mining, Aboriginal land rights, and conservation. Not one of these has predominated over the other." Inside the National Park but technically not a

part of it are two uranium deposits (Jabiluka and Koongarra) and one active uranium mine (Ranger). None of these sites were originally part of the World Heritage Area.

The Ranger Uranium Mine went into production in the 1980s, against the wishes of the traditional Aboriginal owners. (While the 1976 Aboriginal Land Rights (NT) Act requires the consent of traditional owners to mining on their land, the Ranger mine was specifically exempted from this provision.) Although the mine is 6km upstream from an Aboriginal community of 60 people, Mr O'Brien said, some 100,000 litres of radioactive water leak from the tailings dam toward the creek every day.

Industry plans to mine the Jabiluka deposit were approved by the Australian Government in the second half of the 1990s but were strongly opposed by the Mirarr traditional owners and conservation groups. The Mirarr appealed to the World Heritage Committee to intervene, arguing that mining at Jabiluka would threaten Kakadu's cultural and natural values. Among other things, the Jabiluka area includes the important archaeological site of Malakananja II, according to Mr O'Brien "the oldest



Photo: Dominic O'Brien

Mirarr senior traditional owner Yvonne Margarula in front of the Ranger uranium mine inside Kakadu National Park

human occupation site in Australia and possibly the oldest domestic dwelling in the world". The Committee fielded an expert mission to Kakadu which found that the proposed mine would indeed endanger the Park's World Heritage values. As the findings were rejected by the Australian Government, an extraordinary session of the Committee was held in 1999 to deal solely with Kakadu. The Committee expressed its grave concern at the potential impacts on the living cultural values of Kakadu but emphasized Australia's sovereignty and did not inscribe Kakadu on the List of World Heritage in Danger. However, it called for enhanced dialogue with the Mirarr and requested various corrective measures and ongoing reporting. The unprecedented international attention ultimately led to an agreement between the mining company and the Mirarr which guarantees that no mining activity will be carried out without the written consent of the traditional owners. Mr O'Brien emphasized that "you cannot diminish the importance of World Heritage in getting us there" and "what a useful tool" the World Heritage Convention had been for Indigenous peoples in the Kakadu case.

In 2011, the Aboriginal people of Kakadu succeeded in their efforts to incorporate the Koongarra area into the World Heritage Site in order to prevent uranium mining in the area. This time they had the support of the Australian Government and, as a result, there was also unanimous support in the World Heritage Committee. "It was very clear that once the State party was on board, it was just going to happen," Mr O'Brien said.

Mr O'Brien also talked about the World Heritage Convention's nature/culture divide. "Whose nature? Whose culture?" he asked, questioning some of the judgments made in the assessment of Kakadu's outstanding universal value. For instance, Kakadu is World Heritage listed because of its "exceptional natural beauty". In Kakadu, Mr O'Brien noted, "The people have been burning for 50-60,000 years. They have created this landscape absolutely, although you wouldn't know it unless you knew them or unless you had dug deep and found evidence, as we have again this year. So: whose 'nature'?" The best way to understand the Aboriginal view on the nature/culture divide, Mr O'Brien said, is through the Aboriginal kinship system. "The kinship system determines who you marry, what language you talk, where you live, what songs you know, what you eat, when you eat it, and where you walk. And all this is also writ large on the landscape. So how can we say this is nature or culture? It is impossible." He emphasized that this was not just a philosophical question, but "a real everyday social and political thing, an economic thing for the Mirarr... It is a question of ownership."

Noting the "routine violations of Indigenous peoples' rights occurring in the context of the World Heritage Convention", Mr O'Brien made a number of recommendations. Among other things, he suggested that a workshop on the nature/culture divide be held, considering "the inadequacy of such an approach and the political and financial benefits of a holistic viewpoint". He emphasized the importance of verifying Indigenous peoples' free and informed consent prior to World Heritage designations and supported the idea of this being part of the World Heritage Centre's completeness check and subject to evaluation by the Advisory Bodies. He further suggested that an "information clearing house" and early warning system on Indigenous rights and World Heritage sites be established and that the tentative lists should be scrutinized to see whether Indigenous peoples were involved in current applications.

Trinational de la Sangha (Congo/Cameroon/CAR)

Mr Victor Amougou Amougou, Coordinator of CEFAID Cameroon (*Centre pour l'Éducation, la Formation et l'Appui aux Initiatives de Développement au Cameroun*), talked about the situation of the Indigenous Baka people in the Cameroonian part of the Trinational de la Sangha (TNS), a transboundary World Heritage Site that mostly consists of tropical forest. The Cameroonian part of the TNS comprises Lobéké National Park and a large buffer zone including forest management units, logging concessions, commercial "safari" hunting areas as well as community forests and hunting areas. According to Mr Amougou, the whole area has a population of around 50,000 people, 60% of whom are Baka. Traditionally nomadic hunter-gatherers, the Baka rely on the forest resources for food, medicine and many other needs. However, their traditional resource use has been prohibited in most of the World Heritage Area, including the buffer zone. The conservation service in charge of implementing this policy in the field, Mr Amougou noted, was the WWF. Despite the area's wealth of natural resources, Mr Amougou said that the Baka today live in extreme poverty, and their traditions and culture are in great danger.

The Baka are not involved in decision-making relating to conservation of the area. "Local facilitating staff (WWF) refuse to truly involve the other actors," said Mr Amougou. "There is poor involvement in all processes. Although nice reports are written by everybody, in the field it's just formalities. There are no concrete actions aimed at improving the living conditions of the local and Indigenous people. No projects are carried out to provide alternatives to their traditional activities that are forbidden

by the conservation services.” Mr Amougou observed that the role of the WWF in the TNS Cameroon went against the WWF’s own principles on Indigenous peoples and conservation.²⁵

One example of the lack of involvement and marginalization of the Baka in conservation planning and decision-making was the recent nomination of the TNS as a World Heritage Site (in 2011/2012) under natural criteria only.²⁶ The cultural aspects of Indigenous peoples were not taken into account in the nomination. Mr Amougou talked in detail about the consultations with local and Indigenous communities living around Lobéké National Park, which were carried out at the very end of the nomination process and which CEFAID witnessed.²⁷ The consultations took place between 26 January and 2 February 2012, at the very time the nomination document was being finalized and submitted. Some of the communities were only visited after the application had already been submitted (on 1 February). “This raises the question of how the concerns, wishes and views of the communities being consulted could possibly have been taken into consideration or reflected,” Mr Amougou noted.

Mr Amougou said that the consultations were a mere “formality to obtain World Heritage listing” and that the purpose was not to “truly consult the Indigenous peoples in order to obtain their free, prior and well-informed consent”. According to Mr Amougou, the individual consultation meetings were much too short to really inform and educate people about the World Heritage concept and the pros and cons of World Heritage listing, including potential restrictions that might result from listing. He also said that the consultations did not cover all parts of the nominated area and that many villages were left out. Nevertheless Mr Amougou acknowledged that the consultations had been positive insofar as the communities visited by the consultation team had at least been informed that a World Heritage nomination was being submitted.

Mr Amougou recommended that the area’s Indigenous cultural heritage be thoroughly studied and documented and recognized as part of the Outstanding Universal Value of the World Heritage Site. He emphasized the need to carry out consultations in all villages within the World Heritage zone and to truly involve the In-

igenous peoples and other stakeholders in all processes related to the World Heritage area. He said that a system for stakeholder participation in the management of the World Heritage area should be put in place, as well as a platform for the Indigenous people, the local population and civil society organizations to collaborate and discuss the heritage management process. “Conservation should be considered as an integrated process that involves all stakeholders,” said Mr Amougou. “We need conservation for development, not conservation for conservation.”

Q&A Session

In the following question and answer session, Dr Barume observed that the various case studies had demonstrated “how extremely rich in biodiversity the lands of Indigenous peoples are, and that Indigenous peoples can be and are an asset for conservation”. Nevertheless Indigenous peoples’ traditional livelihoods were being criminalized in some World Heritage areas, such as the Central Suriname Nature Reserve. He underlined the importance of figuring out “how to make the World Heritage mechanism really foster Indigenous peoples’ rights and address the historical injustices that Indigenous peoples have suffered” in World Heritage areas. “It is not enough to just adjust the way we operate today,” Dr Barume said. “A real shift needs to be made from the known thinking and known way of doing things to some new way of doing things.” Dr Rössler added that it was very important to take into account not only Indigenous peoples living within World Heritage areas but also those living around World Heritage areas who are using these areas in one way or another. “Evaluation missions need to be made aware of this,” Dr Rössler said. “These people need to be consulted long before a nomination takes place.”

Another point of discussion was the case of the Trinational de la Sangha. Noting that the presentation by Mr Amougou had concentrated on Indigenous peoples’ experiences with the nomination process in Cameroon, Ms Tatjana Puschkarsky of the World Wildlife Fund (WWF) provided some “additional information on how the consultation process was carried out in Congo and the Central African Republic (CAR)”. While she acknowledged that neither in Congo nor in CAR had the free, prior and informed consent of Indigenous peoples been obtained, she said that “the Park Administrations made really good first steps to engage with communities and they sometimes spent over a day in the different communities. The meetings were always several hours long”. She noted that “this is a tough situation to work in: 80-90% of the BaAka in this region are illiterate. It is difficult to explain such a concept as World Heritage to these people, so

25 See *Indigenous Peoples and Conservation: WWF Statement of Principles* (2008).

26 The nomination was resubmitted in 2012 after having been deferred by the World Heritage Committee in 2011, among other things, to allow the States Parties to “Increase further the involvement and representation of local and indigenous communities in the nomination process and future management” (Decision 35COM 8B.4)

27 A report by CEFAID on the consultations is available at <http://www.forestpeoples.org/topics/environmental-governance/news/2012/04/report-cefaid-consultations-cameroon-world-heritage-sit>.

you have to make it relevant to their lives, and this is quite a challenge in the consultation process. But I think they tried, and they consulted more than 1,000 people.” Ms Puschkarsky also said that there was “a changing paradigm and the paradigm is also reaching the conservation organizations such as WWF”. However, as a nature conservation organization, WWF did not have the capacity and it was not their core business to work on human rights, and WWF needed the help and constructive engagement of human rights organizations to deal with human rights challenges on the ground.

Mr Amougou responded that for consultations to be meaningful, Indigenous peoples would need to be given an opportunity to reflect upon the information provided and discuss it among their people, and their positions would actually need to be taken into account. However, most of the consultations in Congo and CAR were carried out after the World Heritage nomination had already been submitted and there was no way that Indigenous positions could be taken into account. Mr O’Brien questioned the appropriateness of one-day long consultations. He noted that the Kakadu National Park Management Plan provides for a two-year timeframe for consultations but said that, in practice, this was often not enough. Mr Ooft remarked, in response to Ms Puschkarsky’s comment on the need to make World Heritage relevant to Indigenous peoples’ lives, that this was one of the “core issues as to why Indigenous peoples clash with environment organizations.



Max Ooft, Association of Indigenous Village Leaders in Suriname (VIDS)

The environment organizations think that it is their job to educate Indigenous peoples on what is relevant for their lives and that they have to educate us on conservation, whereas Indigenous peoples are living in the conservation areas and know exactly what to do. It should be the other way around.” In response to the point that WWF did not have human rights capacity, Mr Ooft said, “This is definitely true, but the problem is, then, why do you get involved in business that is not your core business? Environment and biodiversity and climate change *are* human rights. You cannot separate them. You cannot say we are doing biodiversity and conservation and natural parks and think that this is separate from human rights. It is not.” ○

VIDEO MESSAGE FROM THE UN SPECIAL RAPPOREUR ON THE RIGHTS OF INDIGENOUS PEOPLES

At the beginning of the afternoon session, the expert workshop was addressed by the United Nations Special Rapporteur on the Rights of Indigenous Peoples, **Professor James Anaya**, via video message from Namibia. The Special Rapporteur explained that his mandate from the UN Human Rights Council was to monitor the conditions of Indigenous peoples worldwide, make recommendations to remedy situations in which their human rights are being violated, and promote good practices consistent with relevant international standards. He noted that the Human Rights Council had specifically called upon the Special Rapporteur to “develop a regular cooperative dialogue with relevant United Nations bodies, specialized agencies and programmes” and to “promote the United Nations Declaration on the Rights of Indigenous Peoples and international instruments relevant to the advancement of the rights of Indigenous peoples, where appropriate”.

The Special Rapporteur drew attention to the fact that Article 42 of the Declaration requires UN agencies to act in accordance with the standards expressed in the Declaration, in order to ensure the realization of the provisions of the Declaration. He emphasized that UNESCO programming that touches upon Indigenous peoples’ interests, “must at a minimum be consistent with the international standards that have developed in that regard, as well as with relevant national laws and policies. Ideally, however, UNESCO programming would do more than avoid harm to Indigenous peoples but would actively support their rights.”

Professor Anaya informed the workshop participants that he had met with representatives of the World Heritage Centre in Paris in October 2011 and had brought to their attention information that he had received “in relation to the impacts on Indigenous peoples of specific World Heritage sites and in relation to the inscription of certain sites on the World Heritage List without the free, prior and informed consent of the Indigenous peoples in whose territories they are located.”

He said that, since then, he had continued to look into the issue in the context of his visits as Special Rapporteur to countries and in his examination of specific cases. He mentioned that he had been informed that Indigenous peoples



Photo: OHCHR

UN Special Rapporteur James Anaya

living around the Quebrada de Humahuaca World Heritage Site in Argentina “were not involved in the process of its declaration as a World Heritage Site, were not participating in the management of the site and felt limited in their abilities to maintain their traditional and subsistence activities within the site.” Professor Anaya also drew attention to two positive examples that had come to his attention. Firstly, the Laponian Area in Sweden “where both the natural features and the Saami reindeer herding culture are protected and where a new management structure was recently established that ensures a direct role for the Saami in the conservation and management of the World Heritage area and is built on consensus decision-making”. Secondly, Taos Pueblo in the USA, which was proposed as a World Heritage Site by the Taos people themselves. Professor Anaya promised that, in carrying out his mandate as Special Rapporteur, he would “continue to look at the issue of World Heritage Site designations affecting Indigenous peoples with the hope of encouraging further good practice in this regard”.

The Special Rapporteur added his support to a proposal of the Expert Mechanism on the Rights of Indigenous Peoples encouraging the World Heritage Committee “to establish a process to elaborate, with the full and effective participation of indigenous peoples, changes to the current procedures and operational guidelines and other appropriate measures to ensure that the implementation of the World Heritage

Convention is consistent with the United Nations Declaration on the Rights of Indigenous Peoples and that indigenous peoples can effectively participate in the World Heritage Convention's decision-making processes." He highlighted the need for the Operational Guidelines "to ensure that Indigenous peoples' rights and all human rights are upheld and implemented in the management and protection of existing World Heritage sites and that no World Heritage sites are established in Indigenous peoples' territories without their free, prior and informed consent".

The Special Rapporteur also added his voice to a recent request from Indigenous organizations "that World Heritage nominations and monitoring mission reports be made pub-

licly available as soon as they are received by UNESCO, so that affected Indigenous peoples, local communities and other rights-holders and stakeholders have sufficient time to review the documents and provide input and comments in advance of any decision being taken by the World Heritage Committee", noting that the recent United Nations Conference on Sustainable Development in Rio had underscored "that broad public participation and access to information are essential to the promotion of sustainable development, and that sustainable development requires the meaningful involvement and active participation of all major groups, including Indigenous peoples". ○

PLENARY DEBATE

Following the video message of the Special Rapporteur, there was a one-hour plenary debate on the existing procedures of the Convention and the current practices of the Convention bodies. A major part of the debate focused on the practicalities of evaluation missions and reactive monitoring missions and, in particular, on the ways in which Indigenous peoples' perspectives and human rights aspects are taken into account in these processes. Both Dr Rössler and Mr Oviedo pointed out that the whole system was State Party-driven, including the field missions carried out by the Advisory Bodies and the World Heritage Centre. Mr Oviedo explained that the agenda of the field visits was frequently imposed by State Parties and that the field evaluators often had to rely on State Parties to tell them who to talk to during the missions. While the Advisory Bodies and the Centre normally insist on stakeholder meetings, the State Parties often control who participates in these meetings, Dr Rössler said. The evaluators then have to find other ways of meeting key stakeholders or obtaining information from them. Both Dr Rössler and Mr Oviedo emphasized the importance of making sure that field evaluators obtained information from different sources about who to talk to during the field visits. Ms Rössler indicated that the system for information exchange before field missions could be improved in this regard.

Mr White asked how field evaluators were chosen and whether local Indigenous experts could be appointed as field evaluators. Dr Rössler responded that the World Heritage Centre normally sends UNESCO staff or official representatives on missions but that the Advisory Bodies could freely choose which experts to send, as long as there were no conflicts of interest. For example, experts should not be nationals of the country in which the mission is taking place. Mr Oviedo added that the field evaluators had to be neutral because "it is not allowed and would not be advisable that the reports be written with the direct involvement of people who have a vested interest in saying yes or no to something, as this would affect the credibility of an independent evaluation." Several of the Indigenous experts questioned the neutrality of the field evaluations, however. "It's a valid point to argue for people who are neutral," Dr Barume said, "but Indigenous people could also say that IUCN is not neutral. We know you are a conservation agency, and this is a balance between nature reserves



Douglas Nakashima, UNESCO

and human rights. Do you really look at yourself as making a neutral decision when you do the evaluation?"

Dr Nakashima commented that from the case studies it was clear that "there are human rights violations in relation to World Heritage sites" and that this was "a fact that has to be dealt with by the Convention if it wants to keep its credibility and not be undermined in the future. All of the UN is required to put in place a human rights-based approach and it is in the interest of the World Heritage Convention and also UNESCO that this policy be effectively implemented. We have heard a number of examples where the evaluations have not really paid enough attention or did not have the expert capacity to appropriately address human rights-related issues. Or they did not have the networks and knowledge to identify correctly whose territories and which communities are involved. So there is an area of expertise that is missing from the evaluation missions. In this case it would seem like a good idea to put in place a more effective information-sharing mechanism, meaning that the information would go to those who do know. One should also rethink the capacity and composition of the evaluation teams and provide additional expertise to fill the gaps."

Another issue that was discussed at length was the lack of transparency in the evaluation of World Heritage nominations. Ms Trask strongly criticized a provision in Annex 6 of the Op-

erational Guidelines by which States Parties are requested to ensure that ICOMOS evaluation missions are given a low profile as far as the media are concerned. “We need to change the Operational Guidelines, starting with Annex 6,” Ms Trask said. “How are we supposed to participate in consultations if we do not even know when the evaluation missions are taking place?”

Dr Barume inquired as to when World Heritage nominations and the Advisory Body Evaluations of nominations were published, noting that sharing of information and transparency were key components of a human rights-based approach. Dr Rössler explained that the World Heritage Committee in 2011 had adopted a decision to make the Advisory Body Evaluations public as soon as they were finalized, prior to the Committee’s sessions.²⁸ In 2012, the evaluations and monitoring mission reports were, for the first time, published online before the Committee meeting. However, the nomination documents themselves are still only made public after a site is inscribed on the World Heritage List. Dr Rössler said that “this is a ques-

tion we need to solve. This is a critical issue for Indigenous peoples around the world, because they have not been informed beforehand about these nominations”.

Ms Buckley, Vice-President of ICOMOS, added that “if this meeting were to ask for the nomination documents to be available online freely, we would welcome it. Because then, from the very beginning of the nomination process, you could see the full nomination itself, the maps, the argument for outstanding universal value, the discussion of whether or not there are Indigenous peoples involved and whether they were effectively consulted. You could see what the State Party has claimed – right now you can’t. You could see that before the mission comes and you could write to the Advisory Bodies through the Centre and alert everyone of your interest before the mission comes.” Ms Buckley said that this was a change “that could be done quite easily and quickly but would make a big difference.” ○

28 Decision 35 COM 12B.

TAKING ACTION AND CONCLUDING REMARKS

The final session of the meeting was devoted to discussing the conclusions and recommendations of the expert workshop and was moderated by Professor Dorough. The discussions were based on a draft document that was developed by a small working group at the beginning of the afternoon. After a lively debate, the workshop participants agreed on a Call to Action addressing the “urgent need to make the implementation of UNESCO’s World Heritage Convention consistent with the United Nations Declaration on the Rights of Indigenous Peoples”. Additionally, the experts agreed to put forward a set of proposed amendments to the Operational Guidelines aimed at ensuring respect for Indigenous peoples’ right to free, prior and informed consent in the context of World Heritage nominations, on the basis of a procedure that emerged from the discussions in the expert workshop. It was decided that the outcome documents would not only be delivered to the World Heritage Committee, UNESCO and the Advisory

Bodies, but also to the UN Permanent Forum on Indigenous Issues, EMRIP, and the Special Rapporteur on the Rights of Indigenous Peoples.

Closing the meeting, Professor Dorough thanked all participants for their excellent presentations and other contributions to the workshop. For her, she said, “It was quite significant to hear and to learn about the practical on-the-ground and first-hand experience of people dealing with the implementation of the World Heritage Convention. This alone was worth the time, expense and energy of coming all the way to Copenhagen.” She also thanked participants for being “very open, vocal and frank. Even though we have had a few small disagreements, I think that forums such as this are one of the best ways of bringing key people together and taking collective action.” ○



WORLD HERITAGE AND INDIGENOUS PEOPLES – A CALL TO ACTION

Addressing the urgent need to make the implementation of UNESCO's World Heritage Convention consistent with the United Nations Declaration on the Rights of Indigenous Peoples

The International Expert Workshop on the World Heritage Convention and Indigenous Peoples was organized by the International Work Group for Indigenous Affairs (IWGIA) and financially supported by the Danish Agency for Culture, the Greenland Government, and the Christensen Fund. It took place in Copenhagen, Denmark from 20-21 September 2012 as part of the 40th Anniversary of the World Heritage Convention in 2012, celebrated by UNESCO under the theme “World Heritage and Sustainable Development: The Role of Local Communities”.

The Expert Workshop was attended by, *inter alia*, Indigenous experts and representatives from all continents, including from several World Heritage areas, human rights experts, representatives of the UN Permanent Forum on Indigenous Issues, the UN Expert Mechanism on the Rights of Indigenous Peoples, UNESCO, the World Heritage Centre, IUCN, ICOMOS, the African World Heritage Fund and the Nordic World Heritage Foundation, as well as some government representatives.

This Plan of Action reflects the views of the Indigenous representatives and human rights experts who participated in the Expert Workshop but not necessarily those of the Danish Government's Agency for Culture and the Greenland Government.

Preamble

Recognizing the vibrant contribution that Indigenous peoples make to the maintenance of the common heritage of humankind through their world perspectives, knowledge, cultures, laws, customs, practices, lives, and institutions;

Recognizing the need to genuinely value, recognize and respect the cultural heritage of Indigenous peoples in the definition, management, and protection of World Heritage sites, and the positive outcomes that flow from valuing, recognizing and respecting Indigenous peoples' cultural heritage;

Emphasizing that Indigenous peoples' individual and collective human rights as affirmed in the United Nations Declaration on the Rights of Indigenous Peoples must be recognized, respected, promoted, and realized by States, United Nations agencies, and intergovernmental organizations;

Recalling the purposes and principles of the Charter of the United Nations and the need for good faith in the fulfillment of the obligations assumed by States in accordance with the Charter;

Further recalling UNESCO's constitutional purpose, according to which the organization shall “further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations”;

Stressing the need for the principles of justice, democracy, respect for human rights, non-discrimination, rule of law, good governance and good faith to guide the implementation of the World Heritage Convention at all levels;

Noting the theme of the 40th Anniversary of the World Heritage Convention, “World Heritage and Sustainable Development: the Role of Local Communities”, and the fact that numerous World Heritage sites are situated within Indigenous peoples' lands and territories and therefore have significant ramifications for the human rights, conditions, integrity, and self-determined development of Indigenous peoples and communities;

Welcoming World Heritage Committee Decision 35 COM 12E, wherein the Committee encourages States to involve Indigenous peoples in decision-making, monitoring and evaluation of the state of conservation of World Heritage sites and to respect the rights of Indigenous peoples when nominating, managing and reporting on World Heritage sites within Indigenous peoples' territories;

Emphasizing the UN General Assembly's adoption of the Declaration on the Rights of Indigenous Peoples and the human rights framework that it provides for all States and the UN System, including UNESCO, the World Heritage Committee, and the Committee's Advisory Bodies, for ensuring the survival, dignity and well-being of the Indigenous peoples of the world;

Emphasizing in particular the rights of Indigenous peoples to self-determination, to free, prior and informed consent, to their lands, territories and resources, to cultural integrity, and their other economic, social, and cultural rights;

Convinced that respect for these rights will enable Indigenous peoples to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs;

Drawing attention to the fact that the UN General Assembly, the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the Special Rapporteur on the Rights of Indigenous Peoples, the African Commission on Human and Peoples' Rights, and the IUCN World Conservation Congress have all urged UNESCO and/or the World Heritage Committee to take measures to ensure that Indigenous peoples' rights are respected in all existing and future World Heritage sites and in the overall implementation of the World Heritage Convention (see Annex 1);

Informed by detailed case studies from Indigenous peoples' representatives and experts from across the globe concerning the impacts of the nomination, designation, and management of World Heritage sites upon Indigenous peoples' rights, lives, communities, cultures, lands, and territories (see Annex 2);

Concerned about the legacy of past and ongoing injustices, and chronic, persistent human rights violations that have been and continue to be experienced by Indigenous peoples as a result of the establishment and management of protected areas, including many areas inscribed on the World Heritage List;

Recognizing the historical and persistent human rights violations and breaches of fundamental freedoms being perpetrated by States and others against Indigenous individuals and peoples as a direct result of the implementation of the World Heritage Convention and actions of the World Heritage Committee;

We therefore demand that States, the World Heritage Committee, UNESCO, the World Heritage Centre, and the Advisory Bodies give full attention to the following principles:

- The implementation of the World Heritage Convention must be consistent with the UN Declaration on the Rights of Indigenous Peoples and relevant international and regional human rights instruments and standards.
- Indigenous peoples must be recognized as rights-holders and not merely stakeholders in any decisions affecting them, in accordance with their distinct status and rights under international law and in particular, their right of self-determination.
- Effective, direct, and meaningful representation and participation of Indigenous peoples at all stages and levels of decision-making related to the World Heritage Convention must be recognized, respected, enabled and ensured.
- Indigenous peoples must be fully consulted and directly involved in the identification, decision-making and management of World Heritage sites within or affecting their lands, territories and resources, through representatives chosen by themselves in accordance with their own procedures and institutions.
- States must respect the rights of Indigenous peoples when identifying, nominating, managing and reporting on World Heritage sites incorporating or affecting Indigenous peoples' lands, territories or resources.
- Indigenous peoples' free, prior and informed consent must be obtained when their territories are being identified, nominated or inscribed as World Heritage sites. This essential right must be fully respected and recognized.
- States, the World Heritage Committee, UNESCO, and the Advisory Bodies must effectively involve Indigenous peoples in all stages of monitoring and evaluation of the state of conservation of World Heritage sites in their territories.

To give effect to these principles, we call for the adoption of the following measures and actions:

1. That the World Heritage Committee urgently establish an open and transparent process to elaborate, with the direct, full and effective participation of Indigenous peo-

ples, changes to the current procedures and operational guidelines and other appropriate measures to ensure that the implementation of the World Heritage Convention is consistent with the United Nations Declaration on the Rights of Indigenous Peoples and a human rights-based approach. Such changes must:

- a) Include, *inter alia*, new provisions that affirm and guarantee Indigenous peoples' right to free, prior and informed consent, consistent with the UN Declaration on the Rights of Indigenous Peoples, prior to any tentative listing or inscription of a World Heritage site incorporating or affecting their lands, territories or resources;
 - b) Ensure that Indigenous peoples are recognized as rights-holders and not merely stakeholders;
 - c) Ensure that historical and ongoing infringements of human rights, including those explicitly embraced by the UN Declaration on the Rights of Indigenous Peoples, are identified and addressed through periodic reporting, management and reactive monitoring, as well as by other means.
2. That the World Heritage Committee not inscribe any further sites incorporating or affecting Indigenous peoples' lands, territories or resources on the World Heritage List without proof or evidence that the free, prior and informed consent of the Indigenous peoples concerned has been obtained. In support of this:
 - a) The World Heritage Centre must not accept any World Heritage nomination affecting Indigenous peoples as complete without proof or evidence of the free, prior and informed consent of the Indigenous peoples' concerned. The Operational Guidelines need to be revised to that effect;
 - b) The World Heritage Committee is urged to consider the immediate adoption of the amendments proposed in Annex 3.
 3. That the World Heritage Committee and UNESCO urgently establish the necessary procedures to remedy the existing lack of transparency and accountability in the implementation of the World Heritage Convention, including in the identification, monitoring and management of World Heritage sites and in the processing of World Heritage nominations.
 - a) Such procedures must ensure, *inter alia*, that World Heritage nominations, monitoring mission reports and State Party reports are made publicly available as soon as they are received by the UNESCO World Heritage Centre, so that affected Indigenous peoples, communities and other rights- and stakeholders have sufficient time to review these documents and provide input and comments in advance of any decision being taken by the World Heritage Committee;
 - b) Further, to support increased transparency in the implementation of the Convention, the World Heritage Centre should establish and maintain a public list of those sites on the States Parties' Tentative Lists that may affect the lands, territories or resources of Indigenous peoples.
 4. That the World Heritage Committee establish, with the full and effective participation of Indigenous peoples and through an open and transparent process, an advisory mechanism consisting of Indigenous experts, to assist in the implementation of these and other measures to ensure that all actions related to the World Heritage Convention uphold the rights of Indigenous peoples.
 - a) While the exact role and functions of this mechanism must be determined in full consultation with Indigenous peoples, the advisory mechanism should play a consultative role to the World Heritage Committee in all processes affecting Indigenous peoples, to ensure that the Indigenous peoples concerned are adequately consulted and involved in these processes and that their rights, priorities, values, and needs are duly recognized, considered and reflected;
 - b) A key mandate of the Indigenous advisory mechanism should be to identify and appoint appropriate Indigenous experts and representatives to take part in World Heritage processes impacting Indigenous peoples, including the evaluation of nominations, on-site evaluation missions, evaluation of the state of conservation of World Heritage sites and monitoring missions;
 - c) The UN special mechanisms on Indigenous peoples' rights, including the Expert Mechanism on the Rights of Indigenous Peoples, the Permanent Forum on Indigenous Issues and the Special Rapporteur on the Rights of Indigenous Peoples, should be encouraged to collaborate with the advisory mechanism and assist

- in the execution of its functions as appropriate and consistent with their respective mandates.
5. That States, UNESCO and the World Heritage Committee provide sufficient financial and other resources to enable the World Heritage Centre to effectively support and advance the full realization of the provisions of the UN Declaration on the Rights of Indigenous Peoples in all matters concerning the World Heritage Convention, including by:
 - a) Providing secretarial and other support, as required, to the above-mentioned advisory mechanism of Indigenous experts;
 - b) Establishing a full time staff position to deal exclusively with the issues, concerns, and rights of Indigenous peoples;
 - c) Joining the UN Inter-Agency Support Group on Indigenous Issues, which facilitates the dialogue between the Permanent Forum on Indigenous Issues and the various agencies and organs of the United Nations.
 6. That the World Heritage Committee issue a standing invitation and provide support to the Permanent Forum on Indigenous Issues to participate in its sessions and provide sufficient speaking time to the Permanent Forum to effectively contribute to its sessions.
 7. That States and the World Heritage Committee urgently respond to and redress conditions within existing World Heritage sites where human rights violations or conflicts continue to affect Indigenous peoples and communities.
 8. That the World Heritage Committee request the Advisory Bodies to include experts on Indigenous peoples' rights on their World Heritage Panels and as desk reviewers of all nominations affecting Indigenous peoples.
 9. That States ensure the equitable and effective participation of Indigenous peoples in the administration and management of World Heritage sites within Indigenous peoples' lands and territories and support Indigenous peoples' own initiatives to develop administration and management systems.
 10. That States ensure that the benefits arising from the use of Indigenous peoples' lands, territories and resources as World Heritage sites are defined by and genuinely accrue to the Indigenous peoples concerned, in a fair and equitable manner.
 11. That States, UNESCO and the World Heritage Committee provide sufficient financial resources to support the full realization of the rights of Indigenous peoples in the implementation of the World Heritage Convention and the measures outlined in this Call for Action.

Annex 1: Relevant resolutions, decisions and communications of international human rights mechanisms, intergovernmental institutions, and Indigenous organizations

Annex 2: List of case studies discussed during the International Expert Workshop on the World Heritage Convention and Indigenous Peoples, Copenhagen, Denmark, 20-21 Sept. 2012

Annex 3: Proposed amendments to the Operational Guidelines for the Implementation of the World Heritage Convention related to Indigenous peoples' free, prior and informed consent

Note

The Annexes to this Call to Action are available at http://www.iwgia.org/news/search-news?news_id=678 and <http://whc.unesco.org/en/events/906/>.

PROGRAMME

International Expert Workshop on the World Heritage Convention and Indigenous Peoples

20 - 21 September 2012 – Copenhagen, Denmark

Thursday, 20 September – Morning

- **Opening of the workshop**

Anne Mette Rahbæk Warburg: Welcome address on behalf of the Danish Agency for Culture

Tove Søvn Dahl Pedersen: Welcome address on behalf of the Greenland Government

Lola García-Alix: Welcome address on behalf of IWGIA

- **Introductory speeches**

(Moderator: Tove Søvn Dahl Pedersen)

Kanyinke Sena: Introductory speech on behalf of the UN Permanent Forum on Indigenous Issues

Mechtild Rössler: Introductory speech on behalf of the UNESCO World Heritage Centre

Mililani Trask: Introductory speech on the recent submissions by Indigenous organizations to the World Heritage Committee and UN human rights bodies

- **The human rights and policy framework**

(Moderator: Ida Nicolaisen)

Dalee Sambo: Implementation of the UN Declaration on the Rights of Indigenous Peoples in the context of the World Heritage Convention

Chief Wilton Littlechild: The right of Indigenous peoples to participate in decision-making

Douglas Nakashima: Towards a UNESCO Policy on Engaging with Indigenous Peoples

Thursday, 20 September – Afternoon

- **The World Heritage Convention and Indigenous peoples: current practices and challenges**

(Moderator: Kris Endresen)

Mechtild Rössler: The functioning of the World Heritage Convention

Kristal Buckley: The work of the Advisory Bodies

Gonzalo Oviedo: World Heritage, Indigenous peoples, communities and rights: the engagement of IUCN and WHC Advisory Bodies

Jacob Nyangila: Overview of the role/work of the African World Heritage Fund; practice and experiences regarding the involvement of Indigenous peoples

- **Indigenous peoples' experiences of World Heritage sites (Panel 1)**

(Moderator: Chief Wilton Littlechild)

Bruce White: Wet Tropics of Queensland (Australia)

Laura Pitkanen: Nahanni National Park Reserve (Canada)

C.R. Bijoy: Western Ghats (India)

Audhild Schanche: Várriat Siida, a potential Sami World Heritage site (Norway)

Korir Sing'Oei: Kenya Lake System in the Great Rift Valley (Kenya)

Friday, 21 September – Morning

- **Indigenous peoples' experiences of World Heritage sites (Panel 2)**

(Moderator: Gonzalo Oviedo)

Iokiñe Rodriguez: Canaima National Park (Venezuela)

Michael Teilus: Laponian Area (Sweden)

Christian Erni: Thungyai - Huai Kha Khaeng Wildlife Sanctuaries (Thailand)

Albert Barume: Kahuzi-Biega National Park (DR Congo)

Jill Cariño: Rice Terraces of the Philippine Cordilleras (Philippines)

- **Indigenous peoples' experiences of World Heritage sites (Panel 3)**

(Moderator: Albert Barume)

William Olenasha: Ngorongoro Conservation Area (Tanzania)

Pauline Knudsen: World Heritage in Greenland

Max Ooft: Central Suriname Nature Reserve (Suriname)

Justin O'Brien & James Warden: Kakadu National Park (Australia)

Victor Amougou Amougou: Sangha Trinational (Congo/Cameroon/CAR)

Friday, 21 September – Afternoon

- **Video message from the UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya**

- **Plenary debate**

(Moderator: Albert Barume)

- **Discussion on the recommendations of the expert workshop**

(Moderator: Dalee Sambo)

- **Closing of the expert workshop**

LIST OF PARTICIPANTS

| | |
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| Albert Barume | ILO Specialist on Indigenous and Tribal Peoples' Issues (PRO 169 Coordinator), Member of the Working Group on Indigenous Populations/Communities of the African Commission on Human and Peoples' Rights |
| Ane Aisløv | Danish Agency for Culture |
| Anne Mette Rahbæk Warburg | Director General of the Danish Agency for Culture (Kulturstyrelsen) |
| Audhild Schanche | Senior Advisor, Sami Parliament of Norway (Sámediggi) |
| Bolette Lehn Petersen | Danish Agency for Culture |
| Bruce White | BioCultural ConneXions, Bana Yarralji Anthropologist, Founding member of the Rainforest Aboriginal Network |
| C.R. Bijoy | Campaign for Survival and Dignity, India |
| Cæcilie Mikkelsen | International Work Group for Indigenous Affairs |
| Chief Wilton Littlechild | Chair, UN Expert Mechanism on the Rights of Indigenous Peoples |
| Christian Erni | Asia Programme Coordinator, International Work Group for Indigenous Affairs |
| Dalee Sambo Dorough | Vice-Chair, UN Permanent Forum on Indigenous Issues |
| Douglas Nakashima | Chief of the Small Islands and Indigenous Knowledge Section of UNESCO, UNESCO Focal Point for Indigenous Peoples |
| Eva Egesborg Hansen | Chief of Section, Public Diplomacy and Communication Unit, Ministry of Foreign Affairs of Denmark |
| Eva Juul Jensen | Head of Section, Ministry of the Environment of Denmark |
| Gonzalo Oviedo | Senior Advisor for Social Policy, IUCN |
| Helen Tugendhat | Policy Advisor, Legal and Human Rights/Responsible Finance, Forest Peoples Programme |
| Ida Nicolaisen | Former Vice-Chair of the UN Permanent Forum on Indigenous Issues |
| Inge Schjellerup | National Museum of Denmark |
| Iokiñe Rodriguez | Centre of Social Studies of Science, Venezuela Institute of Scientific Research |
| Jacob Nyangila | Programme Specialist, African World Heritage Fund |
| James Warden | Gundjeihmi Aboriginal Corporation |
| Jill Carino | Vice-Chairperson for External Affairs, Cordillera Peoples Alliance |
| Justin O'Brien | Executive Officer, Gundjeihmi Aboriginal Corporation |
| Kanyinke Sena | Expert Member, UN Permanent Forum on Indigenous Issues |
| Kathrin Wessendorf | International Work Group for Indigenous Affairs |
| Korir Sing'Oei | Executive Director, Centre for Minority Rights Development Institute (CEMIRIDE) |
| Kris Endresen | Director, Nordic World Heritage Foundation |
| Kristal Buckley | Vice-President, ICOMOS International |

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| Laura Pitkanen | University of Toronto, Former representative for the Dehcho First Nations on the Nahanni Expansion Working Group and an analyst in the Dehcho Process |
| Lisen Roll | Senior Advisor, Directorate for Cultural Heritage, Department of Monuments and Sites, Norway |
| Lola García-Alix | Director, International Work Group for Indigenous Affairs (IWGIA) |
| Max Ooft | Association of Indigenous Village Leaders in Suriname, Consultant for UNESCO's Policy on Engaging Indigenous Peoples |
| Mechtild Rössler | Chief, Policy and Statutory Meetings Section, UNESCO World Heritage Centre |
| Michael Lauenborg | Head of Division, Danish Agency for Culture |
| Michael Teilus | Chair of the Laponia Management Board (Laponiatjuottjudus) |
| Mililani Trask | Na Koa Ikaika Ka Lahui Hawaii, Former expert member of the UN Permanent Forum on Indigenous Issues |
| Pauline Knudsen | National Museum of Greenland |
| Peter Nielsen | Advisor on World Heritage Issues, Ministry of Family, Culture, Church and Gender equality, Government of Greenland |
| Søren Krogh | Danish Agency for Culture |
| Stefan Disko | International Work Group for Indigenous Affairs |
| Tatjana Puschkarsky | World Wildlife Fund (WWF) |
| Tove Søvndahl Pedersen | Head of Representation, Representation of Greenland, Copenhagen |
| Victor Amougou Amougou | Centre for Education, Training and Development Support, Cameroon (CEFAID) |
| William Olenasha | Legal Advisor to the Ngorongoro Pastoral Council |



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