Global Dialogue on Human Rights and Biodiversity Conservation
Eldoret, Kenya | 20–23 November 2017
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The Global Dialogue on Human Rights and Biodiversity Conservation was held on 20–23 November 2017 at Starbucks Hotel, Eldoret, Kenya, and was hosted by the Chepkale Indigenous Peoples’ Development Project (CIPDP), founded by the Ogiek Indigenous community of Mt Elgon, Kenya.

The four-day dialogue included representatives from conservation agencies, social justice and human rights advocates, biodiversity conservation and sustainable use experts, legal and human rights professionals, members of community-based organisations, government officials, UN-organisations and academics. The objectives of the dialogue were two-fold. First, it was designed to foster open and forward-looking discussions about actions to support the Ogiek and Sengwer Indigenous peoples of Kenya, in their struggle to keep living in and governing their ancestral lands, which are rich in biodiversity and form the base for their livelihoods. Second, the dialogue formed part of a larger process evaluating and improving existing approaches, tools and practices that have emerged based on the conviction that human rights protection can and should be complementary to safeguarding biodiversity and ecosystems.

Biological and cultural diversity are inextricably connected, as recognised by the Conceptual Framework for the Intergovernmental Science Policy Platform on Biodiversity and Ecosystem Services (IPBES-2/4) and the Joint Programme between UNESCO and the Secretariat of the Convention on Biological Diversity (CBD). Protecting the rights of peoples who depend on their direct and long-standing relationships with their ancestral territories is a requirement of international human rights law. It is also the most strategic and effective means available to conserve and sustainably use national human rights law. It is also often the most strategic with their ancestral territories is a requirement of inter-in and governing their ancestral lands, which are rich in bio-diversity and form the base for their livelihoods. Second, the dialogue formed part of a larger process evaluating and improving existing approaches, tools and practices that have emerged based on the conviction that human rights protection can and should be complementary to safeguarding biodiversity and ecosystems.

The dialogue was jointly organised and designed by SwedBio at the Stockholm Resilience Centre, Forest Peoples Programme (FPF) and Natural Justice. A long pre-dialogue process ensured thorough understanding of the primary interacting factors that generate tensions between conservation organisations, Indigenous peoples and local communities, as well as the overarching legal, institutional and political context and challenges. The design process also explored and facilitated the development and strengthening of the functionality of grievance mechanisms such as the Whakatane Mechanism. The dialogue was financed by support from the Swedish Development Cooperation Agency (Sida) through SwedBio at Stockholm Resilience Centre.

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2 http://www.biodiversityreports/report/the-biggest-single-opportunity-we-have-is-dialogue/
4 http://whakatane-mechanism.org
ecological well-being are, over the long term, utterly dependent on each other. In answering the question “Why do conservation and human rights conflicts still arise?”, we need to pay more attention to those drivers of biodiversity loss, such as extractive industries, that may be far less concerned with human and ecological well-being. There were also hopeful messages, such as that from Costa Rica where it was reported that Indigenous communities are now the largest owners of forests, and a Payments for Ecosystem Services (PES) programme is targeting Indigenous communities because they provide valuable environmental services. In Australia, Indigenous Protected Areas now make up 50 percent of the Australian National Reserve System, and most protected areas occur on Indigenous lands. In countries where conflicts persist, ways forward can be found on the basis that the government and Indigenous peoples have the same objective – conservation of nature and land – and need to find win-win solution together. This became the strong unifying message of the dialogue, and the base for the vision of creating a new narrative, based on positive stories where Indigenous peoples and conservation actors in collaboration have created benefits for both human well-being and nature. Successful judgements, such as the Ogiek of Maui in the African Court on Human and Peoples’ Rights and the Endorlos in the African Commission, are establishing important precedents and principles that restoring Indigenous peoples’ rights to their lands can be crucial to conserving nature. There is a body of international law moving towards supporting this perspective. Also, Indigenous peoples’ traditional lifestyle on the land, and their connection with the forest, are recognised as important aspects in the Ogiek judgement. The African Charter on Human and Peoples Rights has the ability to address such collective rights, which is another important leap forward for recognising Indigenous peoples’ contributions to biodiversity conservation through their collective actions. These examples illustrate that litigation can raise awareness and educate people and institutions, and be a catalyst for further dialogue where relationships have broken down. However, successful judgements in international courts are not sufficient in themselves, and the implementation of these rulings is lagging behind. Development partners and funders need to live up to their responsibility to ensure accountability and the implementation of general rulings and principles as well as the implementation of specific cases. International mechanisms such as the World Heritage Convention and the Convention on Biological Diversity were highlighted as having an important supportive role.

Three underlying questions have been examined from different angles during the dialogue: 1) why conflicts between Indigenous peoples and nature conservation interests still arise, 2) how to avoid them happening, and 3) how active conflicts might be resolved. The Dialogue process produced a bouquet of observations and suggestions to feed into ongoing processes, such as the development of the Post 2020 Aichi Targets of the CBD, the UN Permanent Forum on Indigenous Issues initiative regarding Indigenous Peoples’ Rights and Conservation Standards and Mechanism, and the IUCN World Conservation Congress, all connected to the overarching Sustainable Development Goals and the Agenda 2030.

What do conservation and human rights conflicts still arise? Lack of recognition of Indigenous peoples. Over time, there has been a lack of recognition and appreciation of Indigenous cultures, biocultural diversity and Indigenous peoples and local communities’ customary sustainable use of biodiversity, and thus their contribution to conservation. Lack of recognition of Indigenous knowledge. Scientific knowledge is often perceived as superior, while Indigenous and local knowledge and practices are disregarded and even discriminated against. Wilderness, or land empty of people, has been viewed as the desired state for conservation. However, such ideas do not take into account that Indigenous peoples living with the land and its biodiversity are contributing to and maintaining the land’s conservation value. Conservation actors are not implementing their policies. Conservation guidelines and strategies, within UN, and among international conservation actors have progressed considerably since the Durban Accord of 2003. Many conservation agencies now officially recognise the importance of human rights and Indigenous peoples capacity to manage ecosystems in practice. However, for many agencies and in many places around the world, these progressive policies are yet to be implemented in practice. Outdated laws and policies, and lack of representation. Discriminatory forest and land laws and policies are still in place in many countries. Additionally, legal and policy processes often are not inclusive of consultation of communities. Where policies and laws are in place, the political will to implement them is often lacking. Competition over resources. Greed and temptation for short-term economic gain abound. Local communities’ customary use is often overruled by land grabs and evictions by powerful investors. Competition over land continues, including between communities, and different groups, such as pastoralists with farmers, and land encroachment. Poverty and Development. Despite development ambitions, economic and social inequalities persist. There is a tendency to prioritise economic interests and income generation over human rights in development projects. Injustice and Suffering. The violation of human rights and outright dispossession of land without free, prior and informed consent (FFIC) is unacceptable as a means of solving resource conflicts. Discrimination is rife in many places, and communities are blamed for causing loss of biodiversity.

What can be done to avoid conflicts reoccurring? International policy: Among mechanisms within the UN System there are many processes ongoing that can contribute to strengthening the synergies between Indigenous peoples’ rights and biodiversity conservation. In 2018 UNPFII will give specific attention to territorial rights, and a report on Conservation and the Human Rights of Indigenous Peoples will introduce a way forward, to which the suggestions from the Eldoret dialogue can contribute. The CBD Strategic Plan for Biodiversity 2010 – 2020 is coming to an end, and the development of the Post 2020 targets for the CBD, represents an important opportunity to highlight and push for the positive synergies between biodiversity conservation and the realisation of Indigenous peoples’ rights. One suggestion is a ‘conservation industry’ certification approach could be taken, similar to the Round Table on Sustainable Palm Oil where palm oil suppliers are required to abide by certain rights and sustainability standards to receive certification. International and national advocacy. There is a need for raising awareness of international law and rights-based approaches at national and international level, and a need for training in human rights and disciplinary codes for relevant governments and companies. Education. The recognition of Indigenous knowledge systems as providing useful, credible and legitimate knowledge contributing good practices and critical evidence for biodiversity conservation is important to mainstream in curricula at all stages of education. It is important to establish and maintain services and schools in Indigenous communities to allow them to practice their cultures and ensure the new generation have local access to services, and be culturally adapted knowledge. Legal Reform. As a foundation for all legal reforms, there is a need for governments to recognise that conservation can be successful, and is more likely to be sustained, in partnership with Indigenous peoples. There is a need to influence existing and draft regulations on biodiversity conservation and protected areas towards incorporating co-management agreements. When (and where) legal reforms have been established, it is important to continue to demand enforcement. Policies and national laws should be amended to recognise the rights of Indigenous peoples in protected areas. Community Land Use Plans, participatory planning and co-management are tools that can be introduced and mainstreamed to this end. The need was also raised for mechanisms that are accessible to communities to raise their cases and concerns. Further, Indigenous peoples should be supported in developing their own tools to protect their rights, such as mapping of territories, and strengthening community leadership and governance structures. Dialogue and Negotiation. Before designing any conservation initiative, it is critical to identify local partners and ensure marginalised people are integrated from the onset to ensure meaningful participation and effective consultation. At this initial stage, mutually supportive approaches and solutions that can benefit both nature conservation and communities’ livelihoods should be identified and integrated. To avoid conflicts the principles of FPIC should always be followed. Community visits are needed for those responsible for conservation programmes in government, particularly politicians and conservation agencies so they and others can understand how Indigenous peoples live, think and manage their territories and biodiversity, as well as the realities of life for Indigenous peoples. It was also identified that a mindset is needed in many powerful conservation actors away from discriminatory attitudes and condescension for the resource use practices of Indigenous peoples. This could be catalysed by e.g. training.
Biodiversity and healthy ecosystems, which are vital for human well-being, are rapidly being degraded and destroyed with grave and far-reaching implications for exercising a wide range of human rights, including – in the worst case scenario – human survival itself. The full enjoyment of human rights, including the rights to life, health, food, water, and the full enjoyment of human rights, depends on the services provided by ecosystems. Exercising human rights is also key to halting the unprecedented loss of the diversity of life in lands and waters and of distinct ecosystems. Stronger action is needed for mainstreaming biodiversity and social justice, and these actions must be in accordance with human rights, as well as in line with the 2030 Sustainable Development Agenda.

Human Rights and biodiversity conservation: moving towards synergies

Human rights protection can and should be complementary to safeguarding biodiversity and ecosystems, and this provides a foundation for enabling local people and conservation organisations to be strategic allies, rather than be set in opposition to each other. Conservation organisations – whether governments agencies, NGOs or their funders – and local communities who depend on ecosystems for their livelihoods, should share the common aim of safeguarding biological and cultural diversity for present and future generations. There have been advances in human rights-based approaches to conservation, arising both from policy decisions and implementation, and from innovations in practice. For example, under the Convention on Biological Diversity (CBD), voluntary guidelines for safeguards in biodiversity financing mechanisms have been adopted which explicitly refer to human rights treaties, as do an increasing number of conservation organisation policies. The International Union for the Conservation of Nature (IUCN) has adopted governance categories for protected areas that explicitly recognise Indigenous territorial management contributing to conservation with appropriate support from conservation organisations, national support for community-based natural resource management, and piloting of the Whakatane Mechanism by FFP and IUCN to address and redress situations of injustice against Indigenous peoples in the name of biodiversity conservation.

Despite such advances, there is much more to be done to achieve win-win outcomes for communities and biodiversity conservation in complex situations. This is partly because, in many cases, communities face violence for defending their territories and rights against external biodiversity conservation initiatives. Despite the evidence about the close linkages between biodiversity conservation and human rights, when the concept of conservation of nature was first introduced, it was conceived and developed in a way that suggested a conflict between humans and nature. The starting point for this dialogue has been evidence demonstrating the effects of this divide in practice. The dialogue also aimed to gain an understanding of how to move from this approach towards a balanced praxis that recognises biodiversity conservation and human rights as foundational for each other. The UN Special Rapporteur on human rights and environment, Professor John Knox, in his thematic report on human rights and biodiversity (2017), recommends that conservation organisations should increase their efforts to fulfill their commitments to a rights-based approach to conservation. John Knox notes that: "While States should do more to protect biodiversity, they must act in accordance with the human rights of those who have longstanding, close relationships with their ancestral territories".

The UN Special Rapporteur on the rights of indigenous peoples, Ms Victoria Tauli-Corpuz, in her 2016 report on the rights of Indigenous peoples, appeals to nations states to "... respect, protect and fulfill human rights, including in all actions undertaken to address environmental challenges..." and to "...adopt and implement strong laws ensuring, among other things, the rights to participation, to access to information and to justice, including to an effective remedy...". These reports illustrate the advances in international law and policy. Nevertheless, there is much more to be done in practice to ensure synergies and positive outcomes for communities and biodiversity conservation in complex situations.

Introduction
The Dialogue on Human Rights and Biodiversity Conservation aimed to create a space for participants to collectively learn from practice and recent developments on the ground, to spark dialogue across actors, and to encourage the transformation of conflicts into productive relationships.

Participants were carefully selected to include a range of actors who could directly support the achievement of the above-mentioned objective and act on their experiences as biodiversity conservation agencies and social justice and human rights advocates, biodiversity conservation and sustainable use experts, legal and human rights professionals, members of community-based organisations, government officials, UN-organisations and academics. Unfortunately, despite initially confirming their participation, several government officials informed the organisers at the last moment that they would be unable to attend.

Methodology: “The single biggest opportunity we have is dialogue”

The Dialogue methodology was informed by the ‘multi-actor dialogue seminar methodology’5 developed by SwedBio and a network of colleagues based on experience gained over the past decade. This methodology builds on a diverse literature on social learning, and perspectives that view multiactor dialogues as a means for both personal and systemic transformation and for identifying innovative and genuine solutions for a sustainable future.

The procedures for facilitated dialogue, are encouraging participants to engage in active listening, and to understand each other’s viewpoints and finding meaning and agreement. It is based on the assumption that many people have pieces of the answer and that together they can craft a suite of solutions.” Three features differentiate a dialogue from a discussion; equality, listening with empathy, and bringing assumptions into the open.

Further, the dialogue applied a Multiple Evidence Base approach6. This means that Indigenous, local, and scientific knowledge systems and practices are viewed as equally valid and useful, and seen as generating complementary evidence for sustainable use and management of biodiversity. Through the dialogue process, applying a Multiple Evidence Base approach ensures that equity, reciprocity and usefulness for all actors are maintained, and that all knowledge and thoughts expressed in the dialogue are equally valid and recognised on their own terms.

The Dialogue also drew upon the ‘Whakatane mechanism’7, a mediation method developed for solving conflicts related to Indigenous territories and conservation interests. In planning, it was sought to ensure that discussions happened on the ground, where problems and solutions could be understood in the context of real lived experiences – in this case, at Mount Elgon on Ogiek customary land. However, due to the World Health Organisation’s recommendations to not meet in Trans Nzoia County due to an outbreak of Marburg virus, the venue was changed to the Starbucks Hotel in Eldoret. Mt Elgon, the Ogiek peoples ancestral land, is situated in Chepkitek in western Kenya near the border with Uganda, not far from Eldoret. They have experienced repeated forced evictions from their homes since the late 1880s, but also progress in recognition of their territories in recent years, as an outcome of a Whakatane process starting in 2011. Community members brought music and film to the meeting at Eldoret to allow for some experiential understanding for Dialogue participants.

The Dialogue used Chatham House rules, where participants are free to use the information raised during the meetings, but that neither the identity nor the affiliation of participants expressing a view may be revealed. For the speakers, it was agreed that their presentations would be public. Following the Chatham House rules allows people to speak as individuals and to express views that may not be those of their organisations, and therefore encourages free discussion. Speakers are free to voice their own opinions, without concern for their personal reputation or their official duties and affiliation.

To ensure that information from the Dialogue, in particular from the participating communities, is used only with free, prior, and informed consent, participants could at any moment express that they did not want particular information to be documented or shared outside of the meeting. The organisations representing the respective communities agreed to be the ‘guardians’ of the use of the knowledge and insights that came out of the dialogue. This means that any use of their community knowledge will be discussed and approved by the communities themselves. Organisers and other participants from the dialogue agreed to contact the communities when they need advice on consent. The ‘guardians’ agreed to seek approval from the local communities, as required.

Overview of the Dialogue Process

The preparatory process of the Dialogue started almost a year before the participants met for the four days together in Eldoret. As part of this process, a Living Document setting the scene for the dialogue, its aims, and its approach for moving towards solutions was jointly elaborated by the co-conveners, in interaction with inputs and reflections from participants as well as people who were invited and could not participate.

The Dialogue was structured around three guiding questions: 1) Why do conservation and human rights conflicts still arise? 2) What can be done to avoid conflicts reoccurring? 3) How can active conflicts be resolved?

Participants met on Day 1 to discuss their aspirations for the meeting, listened to the opening speeches, and considered and discussed the question, “why conflicts still arise”. The initial plan for Day 2 was to visit the Ogiek community of Mt Elgon, and reflect over biodiversity governance and conservation during a walking workshop through the landscape under guidance of the Ogiek. However, in the new venue, Indigenous community representatives from Kenya and other countries participating in the dialogue instead shared their experiences of conservation-related conflicts. Experiences were shared by the Ogiek and the Sengwer (Kenya), the Karen (Thailand), Aboriginal peoples (Australia) and the Karwa (DRC and Uganda). Day 3 offered space for participants to further reflect on the root causes of conservation and human rights related conflicts, before moving on to consider “what can be done to avoid conflicts occurring” and “how can active conflicts be resolved?”, looking at the advantages and risks associated with litigious and non-litigious routes. Day 4 expanded on the previous day’s discussions, focussing on the way forward (see Annex I for agenda). See Annex 1 for agenda.

5 http://swed.bio/Rolles/the-role-of-multi-actor-dialogues-in-key-reconcilement-processes/
6 http://swed.bio/stories/a-multiple-evidence-base-approach-for-equity-across-knowledge-systems
7 http://whakatane-mechanism.org
Day 1

Inauguration of the dialogue
The participants of the group were welcomed to the Dialogue on Human Rights and Biodiversity Conservation in Eldoret by a group of Sengwer women, dancing and singing Sengwer traditional dances, carrying memories and stories from their culture. The Sengwer dance established a positive and interactive atmosphere that characterised the rest of the Dialogue process.

Defining the dialogue’s purpose
Facilitated by Justin Kenrick, FPP and Claudia Ituarte-Lima, SwedBio

At the start of the four-day dialogue, participants were asked to group in pairs and introduce themselves, share their expectations of the process and their personal story of becoming engaged in the human rights and biodiversity interface. Attention was drawn to the richness of skills, professional and geographical backgrounds of participants, all explicitly acknowledged as experts. There was a clear convergence across the group, with several themes raised repeatedly.

Among the participants there was a general eagerness for sharing, exchange and learning from the experiences of others, and participants were keen to transform the exchanges into possible solutions that could help communities in their land rights struggles. Moral support was a key aspirational outcome for those facing land rights disputes. Others in the group had more specific interests, including lessons on effective collaboration between communities and the government; applying biodiversity and conservation knowledge to litigation scenarios both nationally and regionally in Africa; and discussing how progress at the international level can have an impact in a national context. For most, there was a tangible interest in making connections with other communities and with international actors, and government officials. The facilitators also introduced the underlying three questions mentioned above.

Opening Statements

Opening statements were made by Peter Kitelo Chongeywo, from Chepkitale Indigenous Peoples’ Development Project (CIPDP) at Mount Elgon, Pernilla Malmer of SwedBio, Elifuraha Laltaika from the UN Permanent Forum on Indigenous Issues and a Law Lecturer at Tumaini University, Makumira, Tanzania.

Elifuraha Laltaika stated that the conversation about human rights and Indigenous peoples’ rights and nature conservation fits very naturally with the broader human rights discourse to which the UN has given its institutional commitment. The conversation also relates to the commitments of countries in their constitutions. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) is the most comprehensive elaboration of the rights of Indigenous peoples, but underscores that if there is no implementation then these rights will just be the embodiment of ritual – they will not change lives.

Peter Kitelo Chongeywo, Chepkitale Indigenous Peoples’ Development Project (CIPDP)

Peter Kitelo introduced the situation of the Ogiek of Mount Elgon, and spoke of the three distinct times when his community were forced off their land: in 1932 when they were evicted from their forest, in 1968 when the land became a national park, and in 2000 – a series of ad hoc evictions led by the Kenya Forest Service, which continues to this day. The last set of evictions, on part of the land, came in June 2016. Each time, the community returned to their land. In 2000, the Ogiek founded the Chepkitale Indigenous Peoples’ Development Project (CIPDP) – the local host for the Dialogue. As a registered organisation, they are better able to mobilise and represent their views in national fora.

He outlined the evidence that the Ogiek continue to conserve the land and the biodiversity that live on it. Eighty percent of elephants on Mount Elgon can be found where the community also has their homes. This, he explained, is because the Ogiek live harmoniously with elephants, which only attack when threatened. Never in Ogiek history, has someone been killed by an elephant. Instead, the community has its own bylaws governing interactions with elephants, and continues to practice traditional livelihoods which complement the elephants’ existence. Kenya Wildlife Service (KWS) recognises that they are conserving their lands so effectively. According to KWS, elephants stay on Ogiek community land because they feel safe from poachers than they do in the national park.

Pernilla Malmer, Senior Advisor, SwedBio at Stockholm Resilience Centre

Pernilla Malmer specified the parameters and process of the dialogue. She clarified that the four-day Dialogue was part of a broader process, situating this discussion in the wider context of ongoing discussions about conservation, biodiversity and human rights, at the international, national and local levels. In these broader discussions, the experiences of the Ogiek and Sengwer of Kenya are important examples to learn from which is why the chosen venue for the dialogue was Eldoret – close to their ancestral land.

She introduced the format of the four days (see Figure 1) and the three sets of questions guiding the discussion and the methods applied. (See page 11, overview of the Dialogue process).

Elifuraha Laltaika, Member of the UN Permanent Forum on Indigenous Issues and a Law Lecturer at Tumaini University, Makumira, Tanzania

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![Figure 1. The outline of the four-day dialogue on Human Rights and Biodiversity Conservation.](image-url)
We currently uphold these rights in part through procedural environmental acts. They are important, but not currently useful to Indigenous peoples, due to the following:

- Lack of access to information - information needs to be contextualised to take into account local situations.
- Access to justice - it is very cumbersome for communities to know where to go, and even understand the language of the court and there is a need for simplified mechanisms for Indigenous peoples to access justice; and
- Advanced and high level understanding of free, prior and informed consent (FPIC) is not well implemented on the ground, particularly concerning Indigenous peoples’ right to deny consent.

A related problem is a dominant view on Indigenous peoples’ rights as solely a conduit or tool for achieving biodiversity conservation, and he articulated the need to distinguish a narrative. Indigenous rights exist distinct from the conservation, and he articulated the need to extinguish such perspectives are viewed as custodians, and not merely stakeholders.

Biodiversity is the lifeline of their livelihoods. Without rewilding, Indigenous peoples are stripped of the opportunity to make a living by preserving the land. Indigenous peoples are stripped of the opportunity to make a living by preserving the land. In Thailand, traditional knowledge is preserved through oral traditions, and the knowledge held by communities is seen as valuable for environmental conservation.

The Sustainable Development Goals (SDGs) include the aim of “nobody should be left behind”, and the same applies to Indigenous peoples. They are important, but not currently considered in the assessments. Rather, Indigenous peoples are viewed as custodians, and not merely stakeholders.

The presenters explained that IPBES are striving to create methods where Indigenous and local knowledge (ILK) can contribute to IPBES assessments as equally valid to scientific knowledge.

In the long term, this will contribute to increased respect and recognition of ILK, and for people as holders of this knowledge. The content of the Global Assessment of IPBES that is currently underway, intersects with the topics of this Dialogue in many ways e.g. the large extent of biodiversity that occurs in landscapes managed by Indigenous peoples (Chapter 2), and how Indigenous peoples and local communities contribute to specific international goals such as the SDGs and the CBD Aichi targets (Chapter 3), how future development scenarios are likely to impact on lands inhabited by IFPLCs and their biodiversity (Chapter 4), and how IFPLCs have been and could be engaged in policies aimed at, for instance, human rights and sustainable development (Chapter 6). Participating in this Dialogue is for the IPBES team both a way of contributing and sharing knowledge about biodiversity and NCPs, and of getting important information and evidence into the IPBES Global Assessment.

Questions and Reflections

There were three main areas of reflection following the presentation from IPBES. The first focused on the interface and relationship between scientific, local and Indigenous knowledge. The group heard that in Thailand, traditional knowledge is robust and evidence-based in its approach to govern and manage biodiversity, but despite attempts to share philosophies and research, the government maintained the view that Indigenous peoples’ rights are at odds with the goals they are striving to achieve.

Arguments were made that Indigenous knowledge systems were equally valid as those seen as scientific, as they also developed and tested their hypotheses against experience. A pressing issue is the lack of acknowledgement of Indigenous and local knowledge, and on the limitations of science, it was argued. The efforts of IPBES to recognise and include Indigenous and local knowledge as equally valid in their assessments was met with much appreciation and expectations from the group.

The second area of discussion centred on the opportunities and tensions surrounding the balance of human rights and biodiversity conservation. IPBES carries out scientific assessments, which are mandated to be policy relevant but not policy-prescriptive. The ability to review evidence in IPBES could be useful e.g. by mapping Indigenous peoples’ land and overlaying it on a map that shows areas of high biodiversity, and that way illustrate the Indigenous contribution to conservation. However, as some pointed out, the risks surrounding the mapping of Indigenous land such as e.g. private interests laying claims to the land after getting indications on valuable resources through the maps, need to be taken into account. IPBES also has the potential to highlight success stories as cases to encourage governments to emulate synergistic modes of operating. Participants also commented on the lack of emphasis of Indigenous peoples’ contributions to biodiversity in IPBES. Others pointed out that it is also important to recognise that there are cases of Indigenous peoples destroying nature (despite awareness of the effects), and that effort should be made to understand the motivations behind this, and how to find solutions.

The third main discussion point was on IPBES’ accountability. Although there is no binding agreement between IPBES’ recommendations and government action, the stronger the evidence and cases in the assessments, the more useful they could be as reference for those who argue for policy changes.

Carlos Manuel Rodriguez, Vice President of Global Policy at Conservation International, and former Minister of Environment of Costa Rica

Carlos Manuel Rodriguez presented a successful case of combining Indigenous communities’ rights and biodiversity conservation in Costa Rica. Beginning with an ecological history of Central and South America, he showed how in Costa Rica in the 1800s, when slavery was abolished and colonisation ended, Costa Rica’s political leaders divided the land within Spanish descendants to grow coffee, pushing Indigenous peoples to remote areas. However, in the 20th century Costa Rica developed many innovative policy frameworks for human development. New civil rights, heavy investments in education and health care and the abolishment of the army generated the conditions for a prosperous Costa Rica but economic growth based on agriculture and cattle increased wealth but came at a high environmental cost with most Costa Rican forest lost in this process.

Between 1947 and 2002 strategic policy decisions put a halt to deforestation leading to a doubling the size of the forest. He presented the encouraging status of Indigenous peoples and land tenure in Costa Rica, showing that the 1 percent of the population of Costa Rica that is Indigenous, own 10 percent of the land. While uncertainty about ownership plagued landowners in the past, today Costa Rica has a precise legislation on property rights including land ownership rights as well as on the rights to natural genetic resources. Costa Rica was the first developing nation to define a national policy on access and benefit sharing on biodiversity resources that now most countries are developing based on the CBD Nagoya Protocol.

Also, Costa Rica, as part of the effort to restore their forest destroyed by the agricultural policies of the 60’s designed a new policy in the mid 1990’s where owners of forest and tree plantations were paid for the environmental services they provide in terms of water production, carbon offsets, biodiversity conservation, pollution and others. This Payment for Ecosystem Services (PES) program targeted Indigenous communities because in Costa Rica they are the largest owners of forest and they provide valuable environmental services. This meant that Indigenous peoples were able to make a living from carbon offsetting on their land by protecting the forest. In other countries, where forests, carbon and subterraean resources are owned by the government, Indigenous peoples are stripped of the opportunity to make a living by preserving the land.
Why do conflicts still arise?

Questions and Reflections

Questions following the presentation focused on how in other countries the state had maintained control over the management of resources. People sought advice on how to open this discourse of dialogue and resource control with their governments. Participants also heard that in many countries there were a failure of trust between Indigenous peoples and governments. Some ideas that emerged were the need for communities to organise themselves better and be more democratic and transparent to ensure clear safeguards and compliance. A proposal raised in line with a resolution taken at the last IUCN World Conservation Congress, was that Indigenous areas (ICCsAs) should be declared ‘no go’ areas for mining.

Where are we? Reflections on key questions. Facilitated by Pernilla Malmer, SwedBio and Helen Tugendhat, FPP

Through the four days of the dialogue, an iterative process was used where topics were visited and then re-visited allowing for reflection and a deeper exploration of the issues. As an introduction to the themes, the participants were asked to briefly and privately reflect on the three guiding questions of the Dialogue, putting their initial thoughts on Post-Its, which were collected and showcased, effectively providing an amalgam of thoughts and ideas. Thereafter, the participants were then divided into five groups to consider and discuss the three questions, recording their thoughts. The emerging themes are presented here.

Why do conflicts still arise?

Initial thoughts from the participants

Ignoring Indigenous Contributions: There is a historic government and societal failure to recognise and appreciate Indigenous cultures, biocultural diversity and IPLCs’ customary sustainable use of biodiversity, and thus their contribution to conservation. Scientific knowledge is still perceived as superior, while Indigenous and local knowledge and practices are disregarded, mistrusted and ignored. The dominant conservation paradigm has been that land empty of people is a desired and necessary status for conservation. Such a paradigm ignores that Indigenous peoples living on the land, nurture and conserve its biodiversity and ecosystems, with their own customary laws for conservation practices.

Conservation Actors: Powerful biodiversity and nature conservation actors often do not want to share control and management over protected land, and continue to apply outdated policies. It was noted that conservation guidelines and strategies within the UN, such as the CBD, and among internationally leading conservation actors have begun to recognise human rights and Indigenous peoples’ capacity to manage ecosystems in practice. However, these policies have yet to be implemented in practice. In many cases, international conservation agencies have still not succeeded in implementing their own policies.

Injustice and Suffering: Participants highlighted the clear inequalities and violation of human rights in ongoing dispossession of land, and the open question of who decides what is fair?

The Nature of Conflict: Conflicts are generally impossible to avoid and unear and mistrust creates further divides. Participants identified sources of conflicts such as different perspectives on what land is to be used for; who owns land and how should it be cared for; mischaracterisation of Indigenous people as destroying biodiversity instead of essential as guardians and actors in healthy social-ecological systems in their territories.

Money, Power and Struggle for Resources: Issues observed included greed, and the temptations of short-term economic gain, as well as land grabs and evictions by powerful investors. Competition for resources as well as disagreements on who owns the land are continual issues, amongst communities, and amongst different groups, such as pastoralists with farmers.

Laws, Policies and Representation: There are still a number of discriminatory forest land laws and policies in place in various countries. This is because law-making processes do not involve adequate consultation of IPLCs, despite the impacts on their livelihoods and rights. Where policies and laws do exist, political will to implement is lacking, or the intentions of the laws may be misunderstood. Land use plans do not recognise multiple use patterns. Further, poor governance and unequal distribution of resources, as well as discrimination against communities is still prevalent.

Poverty and Development: Despite development ambitions, economic and political inequalities persist. There is a tendency to prioritise of economic interests and income generation over human rights in development projects. Top-down approaches to development, as well as unemployment and political instability may worsen these outcomes.

What can be done to avoid conflicts occurring? Initial thoughts

Meaningful Participation and Dialogue: Before designing any conservation initiative, it is critical to identify local partners and ensure marginalised people are integrated from the onset to create a base for meaningful participation and effective consultation, and to build networks for protection and communication. At this initial stage, the mutually supporting approaches and solutions that can benefit both nature conservation and communities’ livelihoods should be identified and integrated. It is important to build on community recognition to ensure Indigenous peoples are respected and not ignored, and then continue to promote ongoing dialogue and discussion between all actors. It was commented that key to avoiding conflicts is the need Free, Prior and Informed Consent.

Accountability and Grievance Mechanisms: Accountability of governments and companies in respecting and putting into practice the national and international principles on human rights is critical for avoiding conflicts. There is a need for raising awareness of international law and rights-based approaches at national and international level, and training in human rights and disciplinary codes for relevant governments and companies. In particular, there is a need for governments to listen and respect court decisions and implement legal rulings in order to build trust in the justice system. Policies and national laws should be amended to recognise rights of Indigenous peoples in protected areas, and Community Land Use Plans, participatory planning and co-management are tools that can be introduced and mainstreamed. Participants also raised the need for mechanisms that are accessible to communities to raise their cases and concerns. Further, Indigenous peoples should develop their own tools to protect their rights, such as mapping of territories, and strengthening community leadership and governance structures. There is also a need for improving awareness within IPLCs of laws and policies that protect them.
EMPATHY, RESPECT AND COMMON GROUND: Participants identified the importance of finding common ground through e.g. building common values and senses of the place, and a common understanding of the biodiversity and the social-ecological system to be conserved. Listening and learning and teaching each other about ecology and culture will shape a common language and understanding. The insight that long-term objectives of IPLCs and conservation agencies are the same, may emerge from this. Solutions of mutual interest may come from mutual respect, empathy and the full involvement of communities in all aspects of conservation, including the use of ILK in governance and monitoring of protected areas.

JUSTICE AND EQUITY: Participants discussed how equitable resource sharing and redistribution of power is key, and multiple approaches are needed to adjust structural imbalances in power. Leadership should be shared in governance of protected areas. Participants reiterated that Indigenous communities living in protected areas be seen as more than stakeholders but rights holders and decision-makers. Government should help communities with resource use planning and implementation of income-generating activities. Community land titles could be a solution in some areas, but should be processed carefully, as it could also create conflict between communities. Participants also suggested that a mindset is needed in powerful conservation actors and that this could be catalysed by e.g. training where Indigenous peoples teach other actors about Indigenous culture and customary sustainable use of biodiversity, as this could lead to better appreciation and recognition of diverse ways of life and values.

HOW CAN ACTIVE CONFLICTS BE RESOLVED?
INITIAL THOUGHTS

Proactive mediation
For any conflict solution, getting parties to the same table for meaningful dialogue is critical; but if this is untenable a request for mediation between proxies can be agreed. Mechanisms are needed to facilitate discussion on disagreements, e.g. Whakatake mechanism. Participants identified that an important action is to bring powerful actors, such as government decision makers and leaders of conservation agencies to interact with the status of conservation and livelihoods on the ground. Powerful actors visiting communities, and even staying with them for a while, has the power to change perspectives.

But if proactive mediation fails?
Participants viewed the use of legal strategies as a remaining option if the above actions fail. The participants reflected there are both opportunities and risks with taking cases to court. Firstly, court cases can be lost. Secondly, even if court cases are won, there is a risk that court rulings are not respected. Therefore, it is necessary to create awareness of and prevent corruption, lack of accountability, and tribalism within institutions. Participants also reflected deeply on how the failure to recognise and respect Indigenous peoples is also a reason why court rulings may not be respected and implemented.

Alternative dispute mechanisms at hand
Participants also raised the possibility that national human rights institutions could be alerted if proactive mediation fails. Their processes are faster and cheaper and less intimidating than that of the courts.

While reflecting over active conflict, once again the need for preventive approaches was raised, reaffirming the conclusions from the earlier themes, on why they occur and how they could be avoided. The vision, of a future where biodiversity and nature conservation are seen as mutually reinforcing, was clear to the group from the onset of the dialogue.

Day 2

Local-to-global dynamics
The second day was initially planned to include a walking workshop together with the Ogiek Community in Mt Elgon. However, due to the change of venue, community members, music and film were brought to the meeting to facilitate some experiential understanding. Experiences were shared by the Ogiek and the Sengwer (Kenya), the Karen (Thailand), Aboriginal peoples (Australia) and the Barwa (DRC and Uganda). Below follows summary of presentations from communities, and the discussion they stimulated.

Mount Elgon experience
Peter Kitelo Chongeywo, CIPDP and Fred Kibelio from Mount Elgon

The Ogiek are an Indigenous hunter-gatherer community living in the highlands of Mount Elgon region, both in Bungoma and Trans-Nzoia counties. Other Ogiek communities live in the Mt Elgon forests. The Ogiek depend on forest resources for their livelihoods – grazing livestock, gathering honey, traditional medicine, and sacred sites for spiritual welfare. Before 1895, their territory extended to the current site of Kitale, and they shared a border with the Sengwer community to the northeast.

The first evictions from their ancestral land took place between 1885 and 1922 as British colonists pushed the Ogiek to the highlands. People were pushed up the mountain.
In the year 2000, the small piece of land that remained for the Ogiek was gazetted as a game reserve, Chepkitale National Wildlife Reserve. However, the Kenya Wildlife Service has responded well to the Ogiek’s request for KWS training for Ogiek scouts, and the Ogiek hope to be able to register their community lands under the Community Land Act. Map from CIPDP.

Questions and reflections
Participants were interested to hear the experience of Ogiek women and how they had been involved as change-makers. Reference was made to the Sengwer case where the government established a task force to look into evictions in Elshobu forest and women were not included. The government defended this decision with reference to Sengwer culture (stating that Sengwer culture does not traditionally elevate women to that level). Participants raised the question: What can be done to make sure that women are not treated as second-class citizens in processes such as related to land rights and biodiversity conservation? It was suggested that men and women’s engagements, and the way they are affected by evictions, are not the same. Evictions affect the whole community, but men go to follow up on what has happened, whereas women have to stay and take care of the family. One reason offered for these different roles was the vicious nature of the struggle (1 man was almost killed 3 times).

A woman from an Ogiek community from Mount Elgon told the group how land dispossession affects women a great deal. She mentioned the Whakatane assessment, and how after many years of conflict with the government taking their land, as a result of the dialogue, women could present their issues, and it was reflected that the situation has improved for women.

Emily Kinama of the Katiba Institute
The Katiba Institute was formed in 2011-12 (‘katiba’ means ‘constitution’ in Kikuyu) to promote constitutionalism and for public interest litigation. One of the Katiba Institute’s cases is that of the Ogiek community in Mount Elgon. Key aspects of this case include the recognition of Indigenous community groups as ‘marginalised’ and establishing that they depend on the forest for their livelihoods.

A court case in 2014 recognised the Ogiek of Mau as a marginalised group and tried to highlight some of the challenges faced by communities living in the forest. According to the court order, within a year of the judgment, the National Land Commission should have identified and registered members of the Ogiek community in Mount Elgon. Key aspects of this case include the recognition of Indigenous community groups as ‘marginalised’ and establishing that they depend on the forest for their livelihoods.

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The first case, which is pending, represents the Ogok community at the frontline of eviction and was started to stop evictions and prevent them. The respondents of the case are the Kenya Forest Service, National Land Commission, the National Police, and the Kenya Wildlife Service. The Katiba Institute’s second strategic litigation case for the Sengwer community is also pending. Part of this process involves presenting the history of the relationship of the Sengwer and their land, and looking at the provisions for community forests and land in the constitution.

Shatikha Chivusia, The Kenya National Human Commission on Rights (KNCHR)

Kenya’s 2010 Constitution has introduced provisions for recognition of community land, however the rules and guidelines have not been provided yet. Most Indigenous people have a history of marginalization and dispossession, coupled with strong ties to the land for their way of life, and therefore, for Indigenous peoples, it is difficult to be separated from their land. If they are taken from the land, they lose access to livelihoods and food security.

In the Kenyan political context, people have traditionally inhabited certain geographical areas and need to continue being clustered together, it was explained. If they are scattered, then apart from family/community disintegration, it also becomes hard for their voice to be heard as they cannot easily get representation. As a minority, they would suffer marginisation unless deliberate steps were taken to ensure their representation.

The KNCHR has completed an enquiry in the Northern Rift Valley region on insecurity and the violation of social and economic rights and the findings provide an example of what happens to communities when people are dispossessed of their ancestral land.

Questions and reflections

Participants reflected on the centrality of ‘goodwill’ in creating political change and fostering goodwill involves advocacy, dialogue and working together. The response from CIPDP pointed to the importance of advocacy work, in ensuring that government officials appreciate the way of life of these Indigenous groups, and appreciate diversity: “the aim does not have to be everyone becoming farmers, people do not need to be made the same”.

Communities around the world

THAILAND: MOUNTAIN PEOPLES & OB LUANG NATIONAL PARK

Nittaya “Mee” Earkanna, Inter-Mountain Peoples Education and Culture in Thailand Association (IMPET), Kriengkai ‘Kai’ Cheechuang, Karen Network for Culture and the Environment (KNCE)

There are more than four million Indigenous people in Thailand. Ethnic groups include the Karen, Mien, Akha, Lahu, Lisu, Lua and the Dara-ang. Indigenous peoples in Thailand face huge negative bias, from the press, by whom they are portrayed as backwards and badly educated, and the state, who do not recognise them as Indigenous peoples. Indigenous peoples are not mentioned in the Thai Constitution and are subject to discrimination and violation by state policies and the laws of the current military government - laws and policies that are passed without consultation with the state.

In one particular set of forced evictions, a 106-year-old man was forcibly removed from his land. These particular evictions formed the content of a court case, they were found to be illegal as no compensation was offered - although the underlying eviction order was found to be lawful. There are many cases of people being arrested and taken into custody (including women and people with mental disorders) for resisting efforts to evictions. The disappearance of Porlajee “Billy” Rakchongcharoen, a well-known Karen activist is only one example. In the most recent case, a youth was shot and injured. He was 19 years old. In response, Indigenous people have created networks and groups to support each other and offer solidarity. They are trying to use the media and have presented evidence to the UN. At the national level, Indigenous representatives have gone to Bangkok to talk with decision makers, but the military government in Thailand makes this particularly challenging.

AUSTRALIA: INDIGENOUS PROTECTED AREAS

Margaret Raven, Macquarie University

There are 75 Indigenous Protected Areas (IPA) in Australia. An IPA is an area of land, over which the customary owners have entered into an agreement with the government over how to care and manage their land. It is a voluntary agreement. The first IPA was established in 1998. IPs now make up 50 percent of the Australian National Reserve System. The process of management planning (and management plans themselves) is based on a flexible approach. For example, management plans can include provisions such as burning country, Aboriginal people rely on fire to care for the country, and some plants require burning to regenerate. The management plans also include collecting and harvesting of plant products and how to manage these resources with a combination of traditional ecological knowledge and western science.

IPAs depend upon ‘native title’, whereby Indigenous communities have pre-existing connection to the land. Indigenous peoples however have often already been forcibly removed from their land through colonisation and as a result many people cannot demonstrate their connection to the land – this means that many Indigenous peoples are not recognised as such. Where a community cannot prove its ongoing connection to the land, no native title is granted, and therefore no collective rights to land through the IPA system are granted.

Before the IPA system, there was a great cross-over between the territories of different peoples, but the native title process does not allow for any cross-overs between Indigenous territories, this has created massive conflicts, as soft boundaries are made rigid.

UGANDA: THE BATWA – BWINDI & MAGAHINGA NATIONAL PARKS

Penninah Zanikia with Tumwebaze Scorah and Segintono Elias, United Organisations for Batwa Development in Uganda (UOBUD)

The Batwa are Indigenous hunter-gatherers. They were forcibly evicted from their land for the creation of Bwindi and Magahinga National Parks in 1991, with no FPPC and no compensation or access rights.

“"The footsteps of our ancestors are in our forest, the milk we drank from our mother’s breast came from the forest. The land we’ve been moved to has neither of these things. It is not our land.”"
The village area of the Ogiek community in Mt Elgon is intensively grazed by domestic livestock but retains many elements of the wild flora and fauna, e.g., Erica bushes. Ogiek villages include many scattered trees amongst homesteads. These trees are highly valued and protected by communities. Photo: S. Diaz

The purpose is for future use by their children and also as evidence of their ancestral lands of Bwindi & Magahinga National Parks – the ancestral heritage site since 1980. Around 6,000 Batwa were forcibly evicted from their traditional territories.

The General Management Plan of Kahuzi-Biéga for 2009-2019 recognises the existence of the conflicts in the park and recognises that the Batwa were forcibly evicted without compensation.

According to the 2014 National Census the Batwa have a population of 6,200. Less than 1 percent of the Batwa are formally employed and their rights are frequently violated: rights to health, and freedom of expression, property and land rights, right to education, women’s rights etc. It is noted, however, that through different initiatives and models to manage natural resources and to find a way for transitioning communities out of the forest through e.g. urbanisation pathways. Others participants disagreed how-ever and reminded that communities want both to conserve and to find a pathway between conservation and human rights. These dialogues with government resulted in a ‘road map’ for communities, which were discussed during the World Parks Congress 2014 in Sydney. The progress of this road map was evaluated in June 2017, when it was agreed that a monitoring committee will be put in place, consisting of Batwa, National Park management, civil society, provincial assembly and provincial government, in order to continue the dialogue for conservation.

Health:
Because we use the herbs from the forest, we used to not get sick, and now we get sick from malaria. When we go to hospitals we are forced to pay money.

Education: 
Our education is low, though some of us are in school. When you go to universal primary education, the pupils are not more than 10. They tell us this is free, but when we go we are forced to pay. Discrimination in school.

Evictions: 
Our parents were evicted from the forests to protect that land. The same people who evict us are the ones who are destroying the land. They are sitting on our rights.”

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In 2013, Batwa representatives prepared a complaint to the Ugandan Human Rights Commission. This complaint was not filed, and instead the Batwa lodged a case with the Constitutional Court which has continuously faced a back-log of constitutional petitions and appeals. The Batwa have also created a participatory map of their ancestral lands of Bwindi & Magahinga National Parks – the purpose is for future use by their children and also as evidence for their court case.

DEMOCRATIC REPUBLIC OF CONGO:

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Embobut Experience
THE SENGWER: WHO WE ARE AND WHAT IS OUR EXPERIENCE OF CONSERVATION?
Milka Chepkorir, Yator Kiptum and Elias Kimaiyo

Milka Chepkorir, a spokesperson for the Sengwer community. Photo: S. Diaz

According to the 2009 census, there are approximately 33,000 Sengwer, making a living from customary livelihoods such as hunting, bee-keeping and handicrafts, and with a strong focus on livestock. Encroachment on Sengwer lands began when Kenya became a British colony, with the community being pushed from the flat hills into the forest, and with tenure of forest given to other groups and continued at the hands of the independent government.

Participants were shown two brief film clips of Embobut and the Sengwer. This was followed by a presentation from Elias Kimaiyo, a Sengwer youth leader, activist and photographer, who shared the story of his recent attack at the hands of the KFS. Taking photos of burning Sengwer homes, Elias Kimaiyo was shot at by KFS guards. He ran and fell, a KFS guard then hit his right arm with the butt of this rifle, breaking it and dislocating his shoulder. Milka Chepkorir told participants how she had to hide from KFS officers every day for two months. They noted that human and environmental rights defenders are becoming targets for violence.

The government still does not recognise Sengwer land tenure rights. Between 1982 and 2007, the community has suffered 22 evictions. The current Forest Act of Kenya does not more than 10. They tell us this is free, but when we go we are forced to pay. Discrimination in school.

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THE SENGWER: WHO WE ARE AND WHAT IS OUR EXPERIENCE OF CONSERVATION?
Milka Chepkorir, Yator Kiptum and Elias Kimaiyo

“Their homes are burned, so they have to cut a tree to rebuild their house. A week later, it is burned again, so they have to cut another tree. It is forced destruction. And we get the blame. But how are we supposed to survive?” Milka Chepkorir

According to the 2009 census, there are approximately 33,000 Sengwer, making a living from customary livelihoods such as hunting, bee-keeping and handicrafts, and with a strong focus on livestock. Encroachment on Sengwer lands began when Kenya became a British colony, with the community being pushed from the flat hills into the forest, and with tenure of forest given to other groups and continued at the hands of the independent government.

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Box 2. Steps taken by the Sengwer to address violations that result from conservation-projects

Natural Resource Management Project (2007-13): In 2007, the World Bank’s Natural Resource Management Plan was established. Sengwer communities resisted this plan at first, but later agreed as the project promised to address land rights and include the Indigenous Peoples’ Planning Framework. However, in 2011 these elements of the project were dropped, giving Kenya Forest Service more power. Communities no longer had the Framework to protect them and evictions began again.

In January 2013, the Sengwer filed a complaint with the World Bank Inspection Panel. The panel’s final report was approved and adopted by the Bank’s board of directors in 2014, recommending a dialogue process. After that, the World Bank supported a National Colloquium in Embobut 2015, held in Eldoret. There is still no follow up and/or implementation of the conference outcome.

In March 2013, the community filed a case in court – the court issued a conservatory order that was not respected by Kenya Forest Service.

EU WaTER Project: In 2016, the EU-funded WaTER Project was launched. This project seeks to protect the ground supplies of water, which are known as water towers, in the Mount Elgon and the Cherangani Hills areas of Kenya, where government is accused of driving Sengwer to live under trees and in caves under their lands. Evictions have severe implications. The Sengwer community is currently living in makeshift shelters. Returning after each eviction, they refuse to leave their lands. Evictions have severe implications. The Sengwer community is forced to live under trees and in caves under conditions of abject poverty, without services such as e.g. schooling. The community suffers regular break outs of diseases such as pneumonia and chest complications. Among youth, school drop outs, child labour and early marriages are common. In the longer term, the community risks the loss of culture, language and traditions, cultural ethnocide and extinction. Arrests, harassment and assault of community members by KFS continues.

Box 2 describes the steps taken by the Sengwer to address such violations, and Box 3 describes their recommendations for resolving this conflict.

Box 3: The Sengwer recommendations

• Call on state institutions and partners to help with support to find solutions.
• Revive and support the dialogue process initiated 2013 following Sengwer complaint to World Bank Inspection Panel regarding their Natural Resource Management Project.
• Review Kenya Forest Conservation and Management Act to recognise and protect rights of forest Indigenous peoples to live in, control, own and sustainably manage their ancestral lands within forests/protected areas working closely with state agencies.
• Strengthen and recognise community governance structures and by-laws.
• Stop evictions and all other forms of human rights violations.
• Formulate internally accepted guidelines for the dialogue that are agreed upon with the World Bank 2013 (see Box 2).
• Support some representatives from conservation state agencies, institutions, civil society and IPs to visit and learn from countries where the rights of IPs to live in, control, manage and own ancestral lands in protected areas sustainably have been recognised.

Questions and reflections

This session provoked a lot of discussion amongst participants. Participants familiar with the case emphasised the importance of site visits for government ministries and human rights bodies. The Colloquium in Embobut (see Box 2) was raised as an example of unwillingness from the state to provide transparency.

There were also reflections on the role of the national media, which was said to have been used very effectively by KFS and politicians to spread counter-narratives on television, influencing public discourse (e.g. claiming that there were no burnings, contrary to the Sengwer’s claims). This links back to the call for effective site visits – people who have never been to these places are the ones writing the policies.

Participants also reflected on the deeper drivers of such human behaviour and the powerful narratives that must be driving such behaviour (e.g. discrimination, greed). Is this ‘biodiversity conservation’-related conflict rather a symptom of a much greater issue? Do we understand the deeper level of why these abuses continue, in spite of the evidence of Indigenous peoples’ long time of living in their lands and their attitude to care for it and conserve?

An exchange also took place amongst participants challenging the views of some that urbanisation may be an important solution to the problems faced by communities, with some arguing that this narrative is directly counter to the rights of Indigenous peoples to live on their land and make a living from customary livelihoods, enshrined in the constitution.

Participants also raised the need to be mindful of the language employed: there is a lot of discussion about “evictions”, when these should be referred to as “forced evictions”, because they are illegal. By using the word “eviction”, the inhumanity and the gravity of the problem is lessened. The UN has guidelines and principles on development-led evictions, and processes for pre, during, and post evictions.

The role of government partners was also highlighted – international financial institutions, who are under obligation to comply with these human rights. A concluding reflection focused on the role of narratives – the state is very strong in building narratives: what will be our role in building counter narratives?
Day 3

Encouraging synergies and transforming conflict – local-to-global dynamics

OPENING SESSION
A panel of four people, facilitated by Claudia Ituarte-Lima, Swedbio, reflected on their impressions of the dialogue’s first two days. The panel consisted of Sandra Díaz of IPBES GA, Wanjiku Manyatta of the Ministry of Environment’s WaTER Service, Elaine Geyer-Alley of WWF International, and Daniel Ole Sapit of the World Bank. Key points that emerged from their comments included: the need for multiple knowledge systems to be taken into account within conservation initiatives and for environmental assessments to include rights considerations; recognizing a diversity of opinions between and within groups governmental, NGOs, as well as IPLCs allows for diverse opinions to be evaluated and as meaningful win-win situations being developed. Using correct terminology is important, such as underscoring that in the present context the Seagers are facing “forced evictions.” A “rights-gap” exists between countries’ stated and constitutional approaches to human rights and biodiversity conservation of the land – and needed to find a win-win situation. In the Kenyan context, it is critical to put in place and strengthen existing processes for communities to defend their rights. Indeed, in many places where WWF works, such processes are not in place. She expressed concern that globally, diversity was being lost, and this was having an impact on health and welfare. She added, the dialogue had underlined the importance of inclusive conservation for WWF, and the need for more efforts to support initiatives led by Indigenous peoples.

Questions and Reflections
Many more reflections were shared from participants following feedback from the four panelists. There were many comments about accountability and grievance mechanisms – for governments, funders, and conservation bodies, with acknowledgement that more needed to be done and that the local and national context of each situation and government capacity was relevant. A concern was raised that the issue was no longer recognition of rights but the lack of accountability and the culture of impunity, and therefore, a change in the narrative is needed too. Another felt the problem was not about the divergence between human rights and biodiversity conservation, but that it was about governance and lack of implementation of principles – that governments sometimes perceived that funders might want a place, such as a forest, empty of people. A government representative added that huge strides had been made in commitments to upholding rights in Kenya in the last 15-20 years. The competition for resources was another topic for reflection and the fact that so many resources are found within the lands of Indigenous peoples, led to pressure for resource extraction. It was a concern that framing e.g. forest resources as commodities, because many people appreciate a forest for other values, such as for livelihood and recreation.
Practical Solutions
Facilitated by Gino Cocchiaro and Edna Odhiambo, Natural Justice

The main focus for the third day was on thematic group work, mixed with inspiring case presentations, envisioning solutions. This thematic group work broke into five thematic groups: Raising Awareness; International Advocacy; National Advocacy, Legal Reform, and Dialogue and Negotiation.

Part one: Practical solutions – prevention
WHAT CAN BE DONE TO AVOID CONFLICTS OCCURRING?

During this session, the thematic groups discussed conflict avoidance strategies, including detailing the objectives they aimed to achieve, their target audience, related challenges, and other strategies with which they could synergise to achieve favourable outcomes.

RAISING AWARENESS.

The need to rephase the narrative about human rights and biodiversity conservation was highlighted. The opportunities for synergies between communities as custodians of biodiversity and conservation of nature are so clear and Indigenous peoples and conservation agencies should rather be allies. If so, this will also help negate the two most common prevailing false narratives; the first being that there would be a conflict between people interested in conserving the environment and those interested in community well-being; the second false narrative is that communities who are still connected to their lands being described as ‘backward’ as a way of justifying their marginalisation and in the worst case forced eviction.

INTERNATIONAL ADVOCACY.

A bouquet of activities was suggested under this heading, such as documenting evidence and produce impactful case studies about how upcoming conflicts between community well-being and biodiversity conservation are being converted to synergistic co-existence. Further, to undertake impact assessments and analyse policies of development partners and biodiversity conservation agencies to ensure accountability. It was important to use social media as well as traditional media. As an example, the Kenyan government used to do this successfully, using full page adverts in newspapers. Litigation should be used as a last resort. For this, for international interventions include: UN agencies (UNESCO, UNDP, UN Environment, CBD, UNHCR); the African Commission; development partners such as the World Bank, the EU, China Exim Bank, African Development Bank; governments; conservation organisations as well as businesses such as safari companies, agribusiness, logging and mining interests. The group further suggested that possible obstacles and challenges might include how to link people on ground with international audiences. The fact that not all government partners are supportive and aware of the possible synergies between community well-being and biodiversity conservation might also hinder; in reality, actors may have differing priorities.

NATIONAL ADVOCACY.

Identifying ongoing conflicts between Indigenous peoples and biodiversity conservation projects and investigate their source, and what are the actors involved was seen as priority. Further, identify factors within the country level that either help or hinder the resolution of these ongoing conflicts. It was suggested to always try to resolve conflicts at the local level first, and use the media to expose the issues. Targets should include: conservation agencies, ministries, national-level commissions, NGOs and Indigenous peoples and local communities. Approaches to avoid conflict included to always apply rights-based approaches; implement and adhere to the rule of law; to develop good will and keep a dialogue between actors; and adopt a bottom-up approach.

LEGAL REFORM.

International, regional and national. It was proposed to put forward laws recognising rights of Indigenous peoples, and to lobby for increased political participation of Indigenous peoples to influence future laws. Training and capacity building of stakeholders, including on the status and role of customary laws, as well as training and awareness-raising of communities about existing laws and how to protect or defend their rights was suggested. To promulgate laws recognising collective rights; and engage in continuous law reform was important, as well as to use systems for access to information in countries to increase accountability; and to engage accountability and governance mechanisms for state and non-state actors. Target groups for actions should include: duty bearers; rights holders; governmental organisations and conservation agencies.

DIALOGUE AND NEGOTIATION.

A number of relevant target audience for reaching out with stories and arguments to ensuring that biodiversity conservation and human rights are perceived and treated as mutually supportive was identified: government agencies; independent commissions; human rights organisations; attorney generals; country governments; communities facing conflict; advocacy and civil society organisations; funders; donors; and development partners. Objectives of dialogues and negotiations should include: networking and collaboration; respect for human rights; achieving compromises; creation of synergies; and building trust. For achieving this with the dialogue was important to at first hand understand why the conflict has arisen; then identify laws and policies, and also work with self-reflection and transparency. A range of existing tools were identified, such as plans and protocols that include steps and milestones of negotiation, as well as timelines, and an understanding how to deal with conflicts as they arise. Externally trained facilitators who are not involved in the conflict play important roles. Potential challenges in the conflict solving might include: inflexibility; lack of commitment to the process; lack of honesty; no mandate to negotiate; and an unrealistic timeframe.

Part two: Practical solutions – resolution
HOW CAN ACTIVE CONFLICTS BE RESOLVED?

The afternoon session looked at different methods that could be employed when conflicts are occurring. Opportunities and difficulties of using litigation routes to resolve such issues were examined, drawing on experiences from the Ogiek of Mau case and the Endorois case. After that non-litigious routes to resolution, through UN mechanisms and through IUCN’s Whakatane Mechanism was looked upon.

Litigious Routes
THE OIGEEK OF MAU FOREST
Lucy Claridge of Minority Rights Group (MRG)

Minority Rights Group saw a successful judgement on 26 May 2017 on the Ogiek of Mau case. The name ‘Ogiek’ she explained, means ‘caretaker of animals and plants’. The 30,000 Ogiek in Ogiek of Mau Forest, Kenya, had been marginalised both before and after independence, and routinely evicted from their homes. They had attempted to end this through various means including domestic litigation and national advocacy, but had not been successful. In 2009 they approached MRG and together they brought a case to the African Commission on Human and Peoples’ Rights (ACHPR).

The case argued that the Ogiek’s rights to equality and non-discrimination, rights to property, natural resources, culture and religion, right to life, and their right to be included in the development process under the African Charter of Human and Peoples’ Rights had all been violated. Kenya is a signatory to the African Charter, and references were also made to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which Kenya had not signed up to.

In 2012, seeing that the process of implementing the previous judgment of the ACHPR in the Endorois ruling (see below) was not progressing well, the African Commission referred the Ogiek case to the African Court, which is the highest human rights court in Africa. It did so, she explained, on the basis that the case contained evidence of mass human rights violations.

In 2013, the African Court issued a provisional measures order, which required the government of Kenya not to take any steps that would harm the Ogiek before the court delivered its final judgment. This order has not been complied with. In 2014, there was a hearing before the African Court. It was scheduled for March but was delayed until November at the request of the Kenyan Government. During the hearing, the Kenyan Government argued that the situation of 2014 was very different to the situation in 2009 as there was a new Constitution in place that guaranteed Indigenous rights. They argued that the court should therefore leave the parties to find an amicable settlement to the dispute. In 2015, the case was therefore officially referred back to the parties for amicable settlement but this led to an unsuccessful dialogue that ultimately saw the case returning to the African Court.

Six months ago, on 26 May 2017, the African Court finally delivered judgment, finding for the Ogiek of the African Charter. They found that the Ogiek were Indigenous peoples and agreed that the Ogiek’s right to property, rights to control their natural resources, and their right to culture and religion had been violated, as had their right to development, since FPC had not been sought when the Ogiek had been evicted. The Court also found that the Ogiek had been routinely discriminated against on the basis of their ethnicity. The Kenyan Government had argued that the Mau Forest needed to be preserved and that conservation therefore justified the treatment of the Ogiek including their eviction, but the court ruled that since the government has allowed for commercial logging of the forest, there was evidence that the land had clearly been allocated to others for reasons that were not linked to conservation. The ruling was also very clear in recognising that the Ogiek and therefore other Indigenous peoples have a role to play in conserving their ancestrally owned natural resources. The court also declared that Kenya’s 2010 Constitution provides for the protection of Indigenous peoples’ rights in theory, but they are not being protected in practice.

The court case took eight-and-a-half years to litigate, but that in reality is only the beginning of the process. It represents a very encouraging ruling which now needs to be enacted to ensure change on the ground. Lucy Claridge showed a film in this session depicting the judgement and showed how the case had an immediate impact on the community – building optimism, energy and solidarity.
What are the opportunities of litigation?

The opportunities of litigation include the value of legal precedents (i.e., a ruling can establish a principle that can be referred to in future legal disputes). Opportunities also include the promotion of the rule of law and the accompanying legal empowerment of communities.

In this case, the Mau Ogiek underwent paralegal training, attended court hearings, and gave witness evidence: elders, youth, women were included and empowered in the process. They were closely involved in monitoring compliance with the provisional measures order, for example, providing crucial evidence which could then be forwarded to the Court. The process can also involve national and international advocacy and awareness raising. In this case, this included engagement with media (Financial Times, BBC World Service, and national media). Additionally, the process can involve educating state officials and regional judiciary, who are now more aware of the specific rights of Indigenous peoples as, for example, none of the African Court judges had ever considered an Indigenous people’s rights case before. The legal case also provided leverage to promote dialogue.

What are the disadvantages of litigation?

The disadvantages include the length of time and the resources needed for building evidence, and for extensive outreach and community support. Most importantly, implementation of positive rulings is a very tough challenge that takes considerable time. In the Ogiek of Mau case there will be a separate reparations order from the African Court on Human and Peoples’ Rights which is hoped for 2018. This will address issues of restitution, compensation, and guarantees of non-repetition (e.g., legislative change, participatory involvement, apology). The Government of Kenya is also due to report back to the African Court on implementation steps within six months of judgment delivery – that is, this is overdue.

Key here is the legislative context: the 2016 Community Land Act and community-developed by-laws should in principle enable the Ogiek to return to and retain their community land on conservation principles. There have also been delays in implementing the judgment so far: an intergovernmental Ogiek Task Force has just been gazetted which purports within to address these issues – but the Ogiek are not yet included within this task force. Meanwhile there is ongoing community outreach and empowerment so that the Ogiek fully understand the ruling, its implications, the next steps in the legal process (reparations) and implementation. This outreach is also aimed at ensuring that the ruling becomes a powerful tool for the Ogiek and that they do not lose faith in the process.

THE ENDOROIS CASE

Wilson Kipkazi, Endorois Welfare Council

This Case was raised by the Endorois, an agro-pastoralist people living around Lake Bogoria, Mochongos Forest and Laikipia plains, in Kenya’s rift valley in the region which under the devolved system, is called Baringo County. Historically, the community had lived peacefully in the plains and the forest, but on the arrival of a colonial administrator, the community was pushed from their territories towards unproductive areas of land. The newly arrived settlers were demanding of the government a game reserve and Mochongoi was gazetted as a forest conservation area. Both reserves were developed for tourism and their connection with the forest. The emphasis on conservation is the fact that the ruling has set a precedent for the recognition of the conservation of biodiversity by the Ogiek was key to the judgement since they were being evicted from their traditional lifestyle on the land, and their connection with the forest. The recognition of Indigenous peoples’ rights to their lands can be crucial to conserving nature, and they note that there is a body of international law moving towards supporting this. The recognition of the conservation of biodiversity by the Ogiek was key to the judgement since they were being evicted from their traditional lifestyle on the land, and their connection with the forest.

The Endorois Case was settled, it has still not been implemented. Participants subsequently reflected on how the Mau Forest case established a principle that recognising Indigenous peoples’ rights to their lands can be crucial to conserving nature, and they note that there is a body of international law moving towards supporting this. The recognition of the conservation of biodiversity by the Ogiek was key to the judgement since they were being evicted from their traditional lifestyle on the land, and their connection with the forest. The recognition of Indigenous peoples’ rights to their lands can be crucial to conserving nature, and they note that there is a body of international law moving towards supporting this. The recognition of the conservation of biodiversity by the Ogiek was key to the judgement since they were being evicted from their traditional lifestyle on the land, and their connection with the forest. The recognition of Indigenous peoples’ rights to their lands can be crucial to conserving nature, and they note that there is a body of international law moving towards supporting this. The recognition of the conservation of biodiversity by the Ogiek was key to the judgement since they were being evicted from their traditional lifestyle on the land, and their connection with the forest.
Non-Litigious Routes
HOW TO IMPACT THE POWER IMBALANCE AMONG ACTORS?
Helen Tugendhat and Justin Kenrick of Forest Peoples Programme

There are several international level mechanisms that have the potential to be useful in seeking to ensure actors recognise human rights in conservation processes. Although none of these is a full solution to the challenge of accessing justice for conservation-related violations, they can provide some leverage and support for Indigenous peoples seeking recognition or compensation for their lands and resources. In this session, Helen Tugendhat and Justin Kenrick presented some of these mechanisms as well as examples where they have been used.

THE UN COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION (UN-CERD)
UN-CERD is the body of independent experts that monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination by its State parties. UN-CERD has an urgent action or early warning procedure that allows people claiming violation of the convention to appeal for an urgent response in the face of direct threats. Although none of these is a full solution to the challenge of accessing justice for conservation-related violations, they can provide some leverage and support for Indigenous peoples seeking recognition or compensation for their lands and resources. In this session, Helen Tugendhat and Justin Kenrick presented some of these mechanisms as well as examples where they have been used.

UN SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES (UNSRIP)
On the second day, the dialogue participants heard from the Sengwer people living in the Embobut and how they have been affected by the Sengwer. A conclusion of this case is that the advocacy strategy in support of the affected Indigenous people, regarding the interplay between international agencies, must be made very clear from the start.

UN SPECIAL RAPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES CASE EXAMPLE OF THE SENGWER
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UN PERMANENT FORUM ON INDIGENOUS ISSUES (UNPFII)
The UNPFII is the first dedicated and permanent mechanism in the UN system that works solely to advance the rights of Indigenous peoples and to convene UN resources to that end. The Permanent Forum has been set up by Indigenous peoples and their supporters, and the mechanisms it has at its disposal can strengthen Indigenous peoples’ cases of concern. In 2017, it addressed the specific situation in Kenya, urging the Kenyan government to recognise and formally protect the land and resource rights of the Ogik and Sengwer peoples. The UNPFII was also asked by the IUCN to establish a task force on conservation and human rights to look at the rights of Indigenous peoples in the context of conservation initiatives, and to promote grievance mechanisms and avenues for redress and is currently undertaking a study to examine these issues.

WORLD HERITAGE CONVENTION (WHC)
Established in 1972, the primary mission of the WHC is to identify and protect the world’s natural and cultural heritage considered to be of “Outstanding Universal Value”. IUCN is the formal Advisory Body of WHC on natural heritage. That means IUCN is responsible for monitoring listed sites and evaluate sites nominated to the World Heritage List. IUCN supports attention to the rights of Indigenous peoples in World Heritage Sites. Since 2015, WHC recommends FPIC as good practice in its Operational Guidelines, but it is still voluntary. However, in a situation where there are human rights violations on a site, and UN-CERD has advised the WHC not to support a bid for World Heritage Site status, it is not yet clear from practice what the World Heritage Convention would recommend in each case.

World Heritage Sites are financially attractive to governments since they increase tourism numbers, and since funding is made available for the upkeep and support of the site. However, this financial leverage, i.e. to ensure rights are respected, is not used as much as it could be.

Governments engaged in the processes of deciding on the recognition of a site are targets for advocacy from many actors. Governments involved in making the decision should be made aware that there are Indigenous peoples and local communities living in the area that are directly affected. In the Thai case mentioned above, UN-CERD was speaking directly to the World Heritage Convention, while OHCHR was launching investigations in Thailand, and human rights organisations made advocacy against the actions of the national government. The interplay of the four was much stronger and useful for the Karen people, than just advocacy to the national government would have been.

In the Thai case mentioned above, the mechanism for the recognition of cultural heritage was brought to the attention of the national and international human rights bodies. The UN-CERD also wrote to the World Bank, which had financed the cultural heritage project, and to OHCHR, which wrote to the national human rights institution. The UN-CERD also wrote to the Thai government concerning the rights of the Karen people, including the recognition of their human rights. The Thai government was asked to ensure that the rights of the Karen people were respected, and that the cultural heritage project was not used to advance the rights of the Karen people. The Thai government was asked to ensure that the cultural heritage project was not used to advance the rights of the Karen people.
UN MANDATES
Two UN Special Rapporteurs have in 2016 and 2017 made reports that explicitly deal with human rights, Indigenous peoples and conservation. John Knox, the Special Rapporteur on human rights and the environment, has presented his thematic report on human rights and the environment, in which he explains that the full enjoyment of human rights, including the rights to life, health, food and water, depends on the services provided by ecosystems, and that exercising human rights is also key to halting the loss of the diversity of life in lands and waters and of distinct ecosystems. He has also presented guiding principles on human rights. Victoria Tauli-Corpuz – UN Special Rapporteur on the rights of indigenous peoples, has presented her thematic report on conservation and the rights of Indigenous peoples10, which contributed to the UNPFII commitment to continue to explore work in this area. She has also engaged in direct communication to governments; e.g., to Thailand and Kenya as outlined above.

UN WORKING GROUP ON BUSINESS AND HUMAN RIGHTS (UN WGBHR)
2011, the UN Human Rights Council established the Working Group on Business and Human Rights, consisting of five independent experts. Its mandate has since then been renewed every third year.

FUTURE IDEAS ABOUT OPPORTUNITIES FOR ENSURING SYNERGIES
Among mechanisms within the UN System there are a range of next steps that could be explored, to strengthen the synergies between Indigenous peoples’ rights and biodiversity conservation. These include both voluntary guidelines, and a binding framework, although the second would require a longer process to build. Consideration is still being given to whether such a framework is best housed within the UN system or elsewhere. There is also the question of whether a ‘conservation industry’ certification approach could be taken, similar to the Round Table on Sustainable Palm Oil (RSPO) where palm oil suppliers are required to abide by certain rights and sustainability standards to receive certification.

The presenters explained that national level mechanisms are only successful if all actors are at the table, however international level mechanisms - whether legal decisions or non-litigious bodies - can seek to bring both sides to the table, and the Whakatane Mechanism, (to be explained in the following section) has had some success in this.

WHAKATANE MECHANISM
The Whakatane Mechanism, a mediation method developed for solving conflicts related to Indigenous territories and conservation interests, was born out of the IUCN 4th World Conservation Congress in Barcelona in 2008 and responded to its Resolution 4.052 that sought to develop a “mechanism to address and redress the effects of historic and current injustices against Indigenous peoples in the name of conservation of nature and natural resources.”

During the preparations for the first Whakatane Assessment that was held in Kenya in 2011, it became very clear that the Indigenous community concerned, the Ogiek of Mount Elgon, did not trust the IUCN East and Southern Africa Regional Organisation (ESARO), headquartered in Nairobi, because the eviction of the Ogiek from their last remaining lands in 2000 was on the advice of IUCN. FPP, was however, trusted by these communities, while IUCN, who had provided advice and support to government, was trusted by the government. In the preparatory negotiations, FPP acted as proxy for the community and IUCN for the government. Justin Kenrick (of FPP) explained that after some initial conflict between FPP and IUCN, they were able to arrive at a common understanding of what was required, and were thus able to bring both parties on board. An effective dialogue requires a huge amount of preparation work in the lead up, and then requires years of follow up to be effective.

In the preparatory roundtable that brought all parties together, the common question of the dialogue that all parties arrived at, was: At Chepkitale, Mount Elgon, how best can the forest be preserved, the wildlife be protected, the Ogiek live in a way that ensures their cultural, social and livelihood needs are met, and economic revenue be generated? This is the question that then guided the assessment which took place at Mt Elgon, including participants from the Kenya Wildlife Service, the Kenya Forest Service, Mt Elgon County Council (who had initially requested the gazing of the land), IUCN, World Bank, and partners, as well as the community.

LESSONS LEARNED FROM IMPLEMENTING THE WHAKATANE MECHANISM
Firstly, a Whakatane process is fundamentally providing context and opportunity for trust building – respectful and challenging dialogue achieves results. Such a process should therefore take place on the land in question. Being on the land raises the concerns of the IPLCs whose heritage is on this land and can also serve to provide an equal platform for diverse actors to discuss and observe the realities on the ground and customary sustainable use. It depends on both parties recognising the necessity for, and interdependence between, biodiversity conservation and rights to control and manage land and resources.

Secondly, through the Whakatane process communities can demonstrate how their collective tenure can be the means to achieve sustainable effective conservation of biodiversity and ecosystems. Thirdly, a Whakatane process is not a one-off assessment: it is a long-term process of ensuring that national laws, policies and practice respect community rights and tenure. It can create the context for global processes to support local and national level dialogue.

Ogiek community members recounted the facilitator’s role in the Whakatane Mechanism. Justin quoted what the facilitator said to those involved in the Mt Elgon Whakatane process: “You have been in conflict for all this time, you have never seen each other face to face. For us to continue, put down your defences and let’s come together and agree that here is a problem we need to solve.”

Open space session and cultural evening
The day’s two sessions on strategies and approaches for problem solutions created an inspired and dynamic atmosphere that developed into discussions in new groups and constellations for sharing new ideas, and providing in-depth inputs across borders and actors about solutions for specific cases. During the open space session, issues brought up during sessions that needed more time for discussion were brought up again.

In the evening the group came together for a joyful dinner in the garden where singing, dancing and storytelling from all participating cultures were shared and appreciated with much laughter and new bonds.

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10 In January 2018 three UN Special Rapporteurs writing to the Kenyan Government provided the pretext for the EU to suspend its funding to the WaTER conservation project, after the Kenya Forest Service had shot and killed a Sengwer community member.
Day 4

The ways forward
Facilitated by Helen Tugendhat and Justin Kenrick of Forest Peoples Programme

The day started with reporting back from the open-space sessions held at the end of Day 3. Discussions covered various topics, such as legal empowerment methodologies and peer-to-peer learning. Lessons were shared from Costa Rica where environmental legal reforms and active networks for lawyers had been part of solutions. The nexus of extraction industries and biodiversity conservation was also discussed, as an ongoing process in the agenda up to CBD COP14 in November 2018, that deals with “Mainstreaming biodiversity in sectors”.

The morning’s group-work focused on the way forward, and started with reflections and inspiration provided by Helen Tugendhat and Justin Kenrick of FPP. They began inviting participants to think back to the Durban Accord of 2003, adopted at the Fifth IUCN World Parks Congress. It is useful to remember that this Congress in Durban represented a significant shift in the way that the conservation movement looked at and articulated the relationship between people and nature.

The pledge of the Durban Accord states: “Our strongest commitments will fail if we neglect to maintain avenues for open dialogue, such dialogue thrives in a climate of humility, credibility and trust. Towards this end we pledge to facilitate understanding and collaboration. We pledge to engage and embrace all constituents. We pledge to seek and protect areas, as a precious heritage, to future generations.”

Since then two other significant, and previously unimaginable, things have happened; firstly, the African Court on Human and Peoples’ Rights was set up in January 2004, which deals with “Firstly, the African Court on Human and Peoples’ Rights”...

September 2007[1], which establishes a universal framework of minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world. Following the same direction, there have also been several landmark legal decisions in favour of Indigenous peoples in cases that have dealt with Indigenous people’s rights to their territories in areas that have been declared as protected for nature conservation by governments, including:

- 2007 Saramaka people v Suriname in Inter-American Court of Human Rights[2]
- 2014 Kalita and Lokono v Suriname in Inter-American Court of Human Rights[3]

Since Durban, there has also been progressive recognition of Indigenous peoples as a distinct group in several global negotiations, such as in the CBD; recognition as a formal UN ‘Major Group’; formal advisory mechanisms established by the Global Environment Facility, the UN General Assembly recognising Indigenous peoples as co-convening the World Conference on Indigenous Peoples, and the last World Conservation Congress which opened up for Indigenous organisations to acquire IUCN membership. The Conservation Initiative on Human Rights[5] has been established between eight of the major conservation organisations. Under this initiative, the participating organisations commit to uphold a set of human rights principles, to enhance its capacities to ensure their implementation, and put in place appropriate accountability measures. Indigenous representatives are now present in key decision making bodies, including those related to conservation.

Yet, implementation of all these important and forward looking decisions at the national and local levels where Indigenous peoples live and conservation efforts are taking place has been lacking. The misconception of biodiversity conservation as requiring huge areas to be emptied of people living there and who have tight connections to their territories, persist. At the same time the Fourth Edition of Global Biodiversity Outlook, the flagship publication of the CBD, with the latest data on status and trends of biodiversity and ecosystems globally, summarises that the world’s biodiversity is continuing to be lost at an alarming rate.

The presenters connected to what had been said in earlier sessions: that in Australia, if a community cannot prove pre-existing connection to the land then no collective rights to land as Indigenous Aboriginal peoples is granted. Where community’s ability to practice that connectedness has been broken, these rights are unattainable. However, this connectedness can be recovered, by recognising that communities as custodians and conservationists as ecologists, each have deep knowledge and strong connection to biodiversity and sustainable development. Communities and conservation bodies need to work together against those forces that exploit and marginalise both communities and the environment.

Two questions were then posed to participants to answer in groups:
- What seemingly impossible thing(s) need to happen for concrete change in your context?
- What can we do together (and what will you carry forward)?

Groups also retained their focus on a specific task from earlier discussions, namely: awareness-raising, national advocacy, international advocacy legal reform and dialogue and negotiation.

AWARENESS RAISING. This group highlighted the need to recognise IPLCs as custodians of land and resources. National governments and intergovernmental bodies, such as the European Union, valuing and appreciating livelihoods of Indigenous peoples and their contribution to the national economy (e.g., Maasai) and sustainability was presented as part of the means to foster positive change. This would include consultation processes from the onset of establishing

11 The African Court on Human and Peoples’ Rights is a continental court established by African countries to ensure the protection of human and peoples’ rights in Africa. It complements and reinforces the functions of the African Commission on Human and Peoples’ Rights. For more information: http://www.african-court.org/en/
12 Declaration is the most comprehensive international instrument on the rights of indigenous peoples. It establishes a universal framework of minimum standards for the survival, dignity and well-being of the Indigenous peoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of indigenous peoples.
13 https://iachr.org/en/Cases/Saramaka-People-v-Suriname
14 http://www.ojunter.org/2016/05/12/ojunter-confirms-indigenous-peoples-land-and-access-to-information-rights/
16 https://www.ucon.org/content/ucon-and-members-form-conservation-initiative-human-rights

GLOBAL DIALOGUE ON HUMAN RIGHTS AND BIODIVERSITY CONSERVATION
where local autonomy is recognised and the need of more accountability of international donors were also raised.

Participants also raised the idea of creating awareness among broader target groups, such as in happening in issues of climate change. People need to be aware of what is happening with Indigenous peoples and the environment, is both a threat to all of us as individuals and to us as a collective.

In this context, greater understanding of commonalities as human beings on the same planet, can support coordinated actions to address challenges such as climate change, as well as the rights of Indigenous peoples to live in and protect their territories. To balance the power, participants identified as significant the power that can be gained by the coordination between a considerable number of relatively less powerful agents. Community level organisation and mobilisation, such as a much, was mentioned as a means for Indigenous and forest peoples to rally support from other sectors of society.

INTERNATIONAL ADVOCACY. The commercial interests on Indigenous lands was identified as one of the reasons why Indigenous people are dispossessed, using the loop holes in the implementation of existing legal instruments and guidelines concerning Indigenous peoples and environmental declarations was also raised as a challenge.

Some of the issues to work through together, identified by the group, were to achieve unity of purpose for all actors; and the effective co-management of resources, such as in Mount Elgon. It was also deemed important by this group to raise the perception of Indigenous knowledge systems as providing useful, credible and legitimate knowledge, contributing critical evidence and good practices for biodiversity conservation. Caring for the environment and learning through Indigenous knowledge systems and practices should be included in the school curriculum. Envisioning this means safeguarding people’s heritage and mechanisms by which this heritage is bestowed upon new generations.

LEGAL REFORM. There are a number of legal initiatives that should be implemented by Governments. First of all, governments need to recognise that conservation can be successful, and is more likely to be sustained through co-management with Indigenous peoples. There is a need to influence existing and draft regulations on conservation in this direction. Rather than investing in practices based on co-management, conservation is being used to marginalise Indigenous peoples. A “fortress conservation” narrative about wilderness empty from people is the only desired conservation status, causes marginalisation and discrimination and is linked to historical injustice. Recognition of Indigenous rights in the constitution is important. With legal reforms established, it is important to continue to demand enforcement. As an example, in Kenya it is unfortunate that Indigenous peoples are so often looked upon as a nuisance when actually they are an integral part of society. She emphasised the necessity of moving away from such thinking. She further said that government is the duty bearer in this regard and has the balance of power on its side, and therefore government is in the best position enact the proper initiatives for the good of all.

Shatikha Chivuwa stated that based on her interaction at the dialogue, she was of the view that KNCHR was well placed to take on a bigger more effective role. Reflecting on the role of Indigenous peoples, and their long history of land management, Shatikha Chivuwa felt that Kenyans should be saying “thank you for conserving our land for so long” as opposed to wrongly attributing blame to Indigenous groups. To look at the issues from a wider perspective – this is the message that KNCHR as an independent government agency would be taking home with them. In terms of the way forward, she noted that there are many challenges that people serving in government can actually address, but goodwill is foundational in moving matters forward (as opposed to the current approach that does not effectively consider Indigenous peoples’ perspectives and tends to move in circles).

Closing of the dialogue

In the closing session, representatives from the diversity of actors shared what messages that they would bring home from the dialogue.

Shatikha Chivuwa, The Kenya National Commission on Human Rights (KNCHR) expressed her appreciation of hearing the experiences from other countries, which had convinced her that African governments can intervene more and in better ways on Indigenous peoples’ issues. She also commented that it is unfortunate that Indigenous peoples are so often looked upon as a nuisance when actually they are an integral part of society. She emphasised the necessity of moving away from such thinking. She further said that government is the duty bearer in this regard and has the balance of power on its side, and therefore government is in the best position enact the proper initiatives for the good of all. Shatikha Chivuwa stated that based on her interaction at the dialogue, she was of the view that KNCHR was well placed to take on a bigger more effective role. Reflecting on the role of Indigenous peoples, and their long history of land management, Shatikha Chivuwa felt that Kenyans should be saying “thank you for conserving our land for so long” as opposed to wrongly attributing blame to Indigenous groups. To look at the issues from a wider perspective – this is the message that KNCHR as an independent government agency would be taking home with them. In terms of the way forward, she noted that there are many challenges that people serving in government can actually address, but goodwill is foundational in moving matters forward (as opposed to the current approach that does not effectively consider Indigenous peoples’ perspectives and tends to move in circles).

PAM MCELWEE, IBPES GLOBAL ASSESSMENT stressed the importance of taking these conflicts seriously as they do not benefit Indigenous peoples nor biodiversity. She reflected that conservation is often used as an excuse for actions that are not conservation-oriented. In the Sengwer case, people are evicted, but charcoal makers, eucalyptus and tea plantations are permitted on the land. One job as biodiversity actors is to push back and communicate these evictions should not be justified in the name of conservation.

She reflected on what sorts of governance systems can help prevent conflict. It is clear that, we have a lot of global tools at our disposal, such as those developed under CBD, but these are not enough because they do not filter down to specific governance systems of specific countries. Additionally, she asked – how can we collect data on conflicts? Currently, this is mostly done by NGOs. But she suggested that an official global system for collecting the data we need for making progress in solving these conflicts, could be created. Finally, she stated that there are a lot of intangible benefits from recognition of Indigenous peoples and their land rights, referring to the film showed e.g. the scenes when the Ojok Mau case won in the African Court on Human and Peoples Rights – referring specifically to the celebration, the joy people have at recognition of their rights and in passing on their knowledge, solidarity and culture.
CARLOS MANUEL RODRIGUEZ, CONSERVATION INTERNATIONAL revisited his initial reflections, and examined them in the light of the outcome of the dialogue. If we do not achieve our climate target, humanity will be in a very tough situation, he said. “This is not going to be solved by governments, or by the UN System, it’s going to be solved by us: civil society,” he said. “This is not going to be solved by governments, or by climate targets, humanity will be in a very tough situation,” he concluded: “We agree more than disagree. We have to change the emergent dominant discourse. Human rights are inherent, no matter where you live, colour of your skin, we are all human beings”.

His final reflection can be seen as the essence of the way forward from the dialogue: it is a very promising sign that participants in the dialogue were all ready to learn and respect Indigenous peoples’ traditional knowledge. As dialogue participants, our task onward will be to continue the journey and create a new positive narrative about human rights, Indigenous rights and biodiversity conservation as mutually supportive in fostering a good life for people and nature together.

ELIFUHARA LAITAIFA, UN PERMANENT FORUM ON INDIGENOUS ISSUES concluded: “We agree more than disagree. We have to change the emergent dominant discourse. Human rights are inherent, no matter where you live, colour of your skin, we are all human beings”.

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TUMWEBASE SCORAH, THE BATWA COMMUNITY, UGANDA reflected on the dialogue as her first experience attending an international workshop. One of the things she will take away is to be persistent: she said she will return home and tell her people that they must come together as one and fight for their rights. Hearing of other communities facing challenges similar to the Batwa has strengthened her belief in the power of dialogue. She resolved that the Batwa must find a way to articulate their views and present these to the government so that when they make a mistake, the Batwa can correct them. Scorah concluded that she had learnt a lot, and had much to share with her community.

PERNILLA MALMER, SWEDBIO, on behalf of all the organisers, expressed sincere thanks to the Ogiek of Mount Elgon and the Chepkitale Indigenous Peoples Development Project as the local hosts. Despite not being able to visit the Ogiek in their traditional territories, so much of their spirit and culture came to Eldoret, and that was also very much thanks to all the Indigenous brothers and sisters who have generously been sharing their experiences and cultures during the days here at the Dialogue. She also thanked all other Indigenous communities from Kenya, Uganda, DRC and Thailand that came to the dialogue and generously shared their knowledge, experiences and stories; and the contributions from all other actors gathered governments, scientists, civil society organisations such as Human Rights organisations and biodiversity conservation organisations, and UN representatives.

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Key references


Forest Peoples Programme Whakatane Mechanism http://www.forestpeoples.org/topics/environmental-governance/international-processes/whakatane-mechanism or http://www.whakatane-mechanism.org/


Vicky Tauli Corpuz, UN Special Rapporteur on Indigenous Peoples Rights (15 mins)

Why do conflicts still arise?
What can be done to avoid conflicts occurring?
How can active conflicts be resolved?

Day 1 – Where we are
(Monday 20 November)

10.00 am Arrival/ Registration of participants
11.00 am Welcoming session
12.00 – 1.00 pm Lunch
1.00 – 3.00 pm Introductions – Participants and the Questions
3.30 – 5.00 pm Opening session

Facilitators
Peter Kietels, CIFOP and Pernilla Malmer, SwedBio
Claudia Ituarte-Lima, SwedBio and Justin Kenrick, FPP

Explanatory notes
Facilitators
Pernilla Malmer, SwedBio and Helen Tugendhat, FPP

Questions and responses invited after each of the presentations. Plenary discussion with the panel after presentations.

Panel after presentations.
Plenary discussion with the

Keynote: UN Special Rapporteur Review of state of the art related to Human Rights and Biodiversity Conservation. Challenges and opportunities

Vicky Tauli Corpuz, UN Special Rapporteur on Indigenous Peoples Rights

What can be done to avoid conflicts occurring?
How can active conflicts be resolved?

Explanatory notes

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<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Notes</th>
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<tr>
<td>12.00 – 1.00 pm</td>
<td>Lunch</td>
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<td>3.30 – 5.00 pm</td>
<td>Opening session</td>
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<td>5.00 – 6.00 pm</td>
<td>Dinner</td>
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<td>6.00 pm</td>
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<tr>
<td>7.00 pm</td>
<td>Free time</td>
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1 This agenda reflects the initial plan, before moving the venue to Eldoret, and with presenters as initially planned for.
Day 2 – Local Global Dynamics
(Tuesday 21 November)

8.30 to 9.00 am
Opening of the day
Pernilla Malmer on Dialogue, Justin Kenrick on the Day

9.00 to 11.00 am
Local/global nexus scene setting:
Part One – Mt Elgon experience:
1. Two brief film clips of Mt Elgon
2. Ogiek community members: who we are and what is our experience of conservation?
3. KWS (Kenya Wildlife Services), KNCHU (Kenya National Commission on Human Rights, Katiba Institute and NLC (National Land Commission)
4. Discussion – Questions, answers and discussion
Facilitators: Peter Kitela, CIIDP and Kibio from Mt Elgon Community
Kiplou (KWS), Chivusi (KNCHU), Emily (Katiba) Swazuri (NLC)

11.00 to 11.30 am
Break (tea/coffee)

11.30 am to 1.00 pm
Local/global nexus scene setting:
Part Two – Communities from around the world
1. Thailand – Mountain Peoples & Ob Luang Nat Park
2. Australia – Indigenous Protected Areas
3. Uganda – Batwa & Bwindi & Mgahinga NP
4. DRC – Batwa
Thailand: IMPACT, Australia: Margaret Raven, Macquarie Uni,
Uganda: Peninah Zarinka wth Ms. Tumwebaze Scorah, Mr Segibondo Elias,
DRC: Bahuti, with Pacifiche Fewers

1.00 to 2.00 pm
Lunch

2.00 to 4.00 pm
Local/global nexus scene setting:
Part Three – Embobut experience
1. Two brief film clips of Embobut and the Sengwer
2. Sengwer community members: experience: who are we and what is our experience of conservation?
3. Discussion – Questions, answers and discussion
Facilitators: Milika Chepkorir, Vator Kiptum and Elias Kimaio

4.00 to 4.30 pm
Break (tea/coffee)

4.30 to 6.00 pm
Open space session
Small group discussion of issues that have emerged during the Dialogue and been ‘parked’. These may be exciting new ideas, difficult divergences, or strong perspectives that need airing
Method: We can “park” specific issues during the Dialogue and return to them in these open sessions.

6.30 pm
Dinner

7.30 pm
Free time (including Film showing)

Day 3 – Encouraging Synergies and Transforming Conflict
(Wednesday 22 November)

8.30 – 9.15 am
Opening and Reflections on Previous Day: Today and tomorrow is about what we can learn from Day 2 and from our previous relevant experiences
A few reflections by different actors
Facilitators: Pernilla Malmer (Swedbio), Peter Kitela (CIIDP)

9.15 – 10.30 am
Underlying question:
1) “Why do these conflicts still arise?”
To propose solution to any issue, the first step is to develop a clear understanding of the factors and dynamics that contribute to it. This session is an opportunity for participants to describe why – despite the clarity of international human rights law and conservation science – conservation-related injustices continue to occur, and conservation misses the opportunity to benefit from communities committed to sustaining their lands.
Are the root causes related to:
1) Lack of knowledge about the applicable human rights standards, including misunderstanding when and how they might be applied?
2) Funding flows for initiatives that do not focus on potential human rights impacts of the activities?
3) Inability/unwillingness to recognize communities’ contribution to conservation? or
4) Different factors acting in isolation or in combination with others?

10.30 – 11.00 am
Break (tea/coffee)

11.00 am – 1.00 pm
2) “What can be done to avoid conflicts occurring?”
What approaches and tools for avoiding conflict, celebrating synergies and generating sustainability exist? Questions will include:
1) Do we need better understanding and implementation of existing human rights, or new tools such as Conservation Standards, to guide conservation practice?
2) Would communities benefit from legal empowerment and training to be able to affirm their rights and responsibilities effectively?
3) What is the role of regional and international actors, including such organisations and funders?

1.00 – 2.00 pm
Lunch

2.00 – 5.00 pm
(inc break)
3) “How can active conflicts be resolved?”
What range of approaches, examples and tools for transforming conflicts when they arise, and what are their strengths and weaknesses? Including:
1) The pros and cons of Legal pathways — e.g. strategic litigation (including Endorois and Mau Ogiek cases) and implementation
2) The pros and cons of Dialogue tools — e.g. Whakatane (including at Mt Elgon, Thailand and DRC)

5.00 – 5.15 pm
Break (tea/coffee)

5.15 – 6.45 pm
Open space session
Small group discussion of issues that have emerged during the Dialogue and been ‘parked’. These may be exciting new ideas, difficult divergences, or strong perspectives that need airing.
Including a session about IPBES Global Assessment. People can join any discussion

7.00 pm
Dinner

7.30 pm
Culture sharing evening:
all participants are invited to bring and share their cultures (whether songs, dances, plays, stories, struggles, celebrations or whatever we choose to bring). We are encouraged to bring, show and invite others to enjoy our cultures
Day 4 – The Way Ahead
(Thursday 23 November 2017)

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
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<tbody>
<tr>
<td>8.30 – 9.00 am</td>
<td>Opening of day 4 (Where are we? Feedback from the Tools sessions and the Open space sessions)</td>
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<tr>
<td>9.00 – 10.30 am</td>
<td>Can we empower synergistic change? How can we better work with each other (e.g. government, UN, donors, Indigenous peoples, local communities)? Do we have a shared understanding? How to implement existing joint approaches better or pursue new ideas? Small groups then Plenary discussions on 'Opportunities and challenges for collaboration'</td>
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<tr>
<td>10.30 – 11.00 am</td>
<td>Break (tea/coffee)</td>
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| 11.00 am – 1.00 pm| Priorities/Actions to be decided during Dialogue:  
- (1) What collaboration is working?  
- (2) What further collaboration has this Dialogue made possible?  
- (3) What is needed to enable collaboration?  
Justin Kenrick (FPF) and Pernilla Malmer (SwedBio) |
| 1.00 – 2.00 pm| Lunch |
| 2.00 – 3.00 pm| Wrap up – Evaluation and Closing ceremony Organising team and host community |
| 3.00 – 3.30 pm| Coffee/tea, and then travel back to Nairobi |

ANNEX II: List of participants

<table>
<thead>
<tr>
<th>Participant</th>
<th>Organisation</th>
<th>Country</th>
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<tbody>
<tr>
<td>Mr Eifuraha Laltaika</td>
<td>UN Permanent Forum on Indigenous Issues</td>
<td>Tanzania</td>
</tr>
<tr>
<td>Mr Chris Chapman</td>
<td>Amnesty International</td>
<td>UK</td>
</tr>
<tr>
<td>Ms Naomi Barasa</td>
<td>Amnesty International</td>
<td>Kenya</td>
</tr>
<tr>
<td>Ms Lucy Claridge</td>
<td>Minority Rights Group</td>
<td>UK</td>
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<tr>
<td>Mr Philip Franks</td>
<td>IED</td>
<td>UK</td>
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<tr>
<td>Ms Elaine Geyer-Alley</td>
<td>WWF International</td>
<td>Kenya</td>
</tr>
<tr>
<td>Ms Sandra Díaz</td>
<td>IPBES Global Assessment Co-Chair</td>
<td>Argentina</td>
</tr>
<tr>
<td>Mr Zolt Mönkh</td>
<td>IPBES Global Assessment Chapter Author</td>
<td>Hungary</td>
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<tr>
<td>Mr Tamrat Gode Bekele</td>
<td>IPBES Global Assessment Chapter Author</td>
<td>Ethiopia</td>
</tr>
<tr>
<td>Ms Pam McElwee</td>
<td>IPBES Global Assessment Chapter Author</td>
<td>USA</td>
</tr>
<tr>
<td>Mr Peter Bates</td>
<td>UNESCO ILK Technical Support Unit</td>
<td>UK</td>
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<tr>
<td>Mr Dan Ole Sapt</td>
<td>World Bank/MPIDO</td>
<td>Kenya</td>
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<tr>
<td>Commissioner Shatikha S. Chiusua</td>
<td>KNCHR</td>
<td>Kenya</td>
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<tr>
<td>Ms Akademia Wandibba</td>
<td>OHCHR</td>
<td>Kenya</td>
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<tr>
<td>Mr Joseph Onjala</td>
<td>Government Advisor, EU WaTER Project</td>
<td>Kenya</td>
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<tr>
<td>Ms Wanjiku Manyatta Woambui</td>
<td>Min. of Environment, EU WaTER Project</td>
<td>Kenya</td>
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<tr>
<td>Ms Linette Ochiengywo</td>
<td>Ogiek, Mount Elgon</td>
<td>Kenya</td>
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<tr>
<td>Ms Brenda Chepkorir</td>
<td>Ogiek, Mount Elgon</td>
<td>Kenya</td>
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<tr>
<td>Mr Vitor Kiptum</td>
<td>Sengwer IPP</td>
<td>Kenya</td>
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<tr>
<td>Mr Elas Kimayo</td>
<td>Sengwer IPP</td>
<td>Kenya</td>
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<tr>
<td>Ms Milka Chepkorir</td>
<td>Sengwer IPP</td>
<td>Kenya</td>
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<tr>
<td>Mr Wilson Kipkazi</td>
<td>Endooris Welfare Council</td>
<td>Kenya</td>
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<tr>
<td>Mr Joseph Sang from OPDP</td>
<td>Ogiek, Mau</td>
<td>Kenya</td>
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<tr>
<td>Ms Emily Kinama</td>
<td>Kathina Institute</td>
<td>Kenya</td>
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<tr>
<td>Ms Pacifique Mukumbia</td>
<td>Center of Accompaniment for Indigenous Pygmies and Vulereable Minorities (CAMV), Kahuzi-Biega</td>
<td>DRC</td>
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<tr>
<td>Mr Nyamushiriberehahati</td>
<td>CAMN, Kahuzi-Biega</td>
<td>DRC</td>
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<tr>
<td>Ms Penninhah Zaninka</td>
<td>United Organisation for Batwa Development in Uganda (UOBDU)</td>
<td>Uganda</td>
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<tr>
<td>Ms Tumwebaze Sorah</td>
<td>UOBDU, Batwa</td>
<td>Uganda</td>
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<tr>
<td>Mr Segintondo Elias</td>
<td>UOBDU, Batwa</td>
<td>Uganda</td>
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<tr>
<td>Ms Nittaya Earkanna (Mee)</td>
<td>IMPACT, Thailand</td>
<td>Thailand</td>
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<tr>
<td>Mr Kriengkrai Cheechuang (Kai)</td>
<td>IMPACT, Thailand</td>
<td>Thailand</td>
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<tr>
<td>Ms Margaret Raven</td>
<td>Macquarie University</td>
<td>Australia</td>
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<tr>
<td>Mr Carlos Manuel Rodriguez</td>
<td>Conservation International</td>
<td>Costa Rica</td>
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Organisers

<table>
<thead>
<tr>
<th>Participant</th>
<th>Organisation</th>
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<tbody>
<tr>
<td>Ms Pernilla Malmer</td>
<td>SwedBio at Stockholm Resilience Centre</td>
<td>Sweden</td>
</tr>
<tr>
<td>Ms Claudia Huarte Luma</td>
<td>SwedBio at Stockholm Resilience Centre</td>
<td>Mexico/Sweden</td>
</tr>
<tr>
<td>Ms Helen Tugendhat</td>
<td>Forest Peoples Programme</td>
<td>UK</td>
</tr>
<tr>
<td>Mr Justin Kenrick</td>
<td>Forest Peoples Programme</td>
<td>UK</td>
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<tr>
<td>Ms Nadia Stone</td>
<td>Forest Peoples Programme</td>
<td>UK</td>
</tr>
<tr>
<td>Ms Catherine Clarke</td>
<td>Forest Peoples Programme</td>
<td>UK</td>
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<tr>
<td>Ms Louise Henson</td>
<td>Forest Peoples Programme</td>
<td>UK</td>
</tr>
<tr>
<td>Mr Gino Cocciaro</td>
<td>Natural Justice, Nairobi</td>
<td>Kenya</td>
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<tr>
<td>Ms Edna Odhiambo</td>
<td>Natural Justice, Nairobi</td>
<td>Kenya</td>
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<tr>
<td>Mr Peter Kitei Chongreyo</td>
<td>Cheptkale Indigenous Peoples Development Project, (CIPDP) Mount Elgon</td>
<td>Kenya</td>
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<tr>
<td>Mr Fred Kibeiolo Ng' eywo</td>
<td>CIPDP, Mount Elgon</td>
<td>Kenya</td>
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ANNEX III: Evaluation of the Dialogue by the Participants

Summary
The evaluation questionnaire was completed by 29 participants.

1. What was positive about the dialogue?

The mix of actors, with representatives from different interests, and interaction between different perspectives and sectors were appreciated by almost all participants, as this quote illustrates: "The interaction was very healthy and frank and the spirit & collective goal-setting was tremendously positive".

The opportunity to share experiences from different parts of the world, was emphasised by many, and particularly by the Indigenous participants. The recognition of Indigenous rights and the value of their knowledge and practices for conservation, and their explicit recognition during the dialogue was also highly appreciated. Specific positive experiences where governments and Indigenous peoples had been collaborating in conservation of Indigenous lands were mentioned by participants. Participants also greatly appreciated the learning across different sectors and scales, for example, ecologists learning about human rights aspects of conflicts. One participant particularly commented:

"I have a better understanding of the necessary mechanisms at every level, international, national, and local, and so feel capable of introducing them and adjusting them for use and dissemination”

2. What could we do better?

Despite recognition of the diversity of actors gathered, some reflected that there could have been even more representatives from governments and the conservation sector. Many were regretful that a group of government representatives backed out of attending, the week before the dialogue. Many also missed the opportunity to spend one day of the dialogue in Mt Elgon, (as had been planned for, but had to be changed at the last minute, due to a WHO announcement of an outbreak of Marburg virus on the Ugandan side of the area).

Some commented that the agenda was very busy and that they would have liked to have had more space for free discussions. However, there were also reflections that even though the program was intense, there were so many positive outcomes that can be expected to be taken forward and that will have impact on different levels.

As one participant described it: “The dialogue might have been packed in terms of the program but we achieved our goal. Thank you!”
About the report
This report presents the outcomes of a Global Dialogue on Human Rights and Biodiversity Conservation, in Eldoret, Kenya in November 2017. It was initiated to address the conflicts that have emerged across the globe between conservation agencies and Indigenous peoples with longstanding relationships with their ancestral territories. The dialogue was co-organised by SwedBio at Stockholm Resilience Centre, Forest Peoples Programme, and Natural Justice. The Chepkitale Indigenous Peoples Development Project was the local host in Kenya. The dialogue took the conviction that local people and conservation organisations can be strategic allies as a starting point. It was attended by conservation agencies, social justice and human rights advocates, biodiversity conservation and sustainable use experts, legal and human rights professionals, members of community-based organisations, government officials, and UN-organisations and academics. The dialogue was designed in a global policy-setting context, while also aiming to contribute to local solutions.

SwedBio
is a knowledge interface at Stockholm Resilience Centre contributing to poverty alleviation, equity, sustainable livelihoods and social-ecological systems rich in biodiversity that persist, adapt and transform under global change such as climate change. SwedBio enables knowledge generation, dialogue and exchange between practitioners, policy makers and scientists for development and implementation of policies and methods at multiple scales.

Chepkitale Indigenous People Development Project (CIPDP) is the organisation that represents the community of the Ogiek people of Mt Elgon. CIPDP connects the community with external actors and promote the Ogieks rights and development.

Forest Peoples Programme (FPP) was founded in 1990 in response to the forest crisis, specifically to support Indigenous forest peoples’ struggles to defend their lands and livelihoods. FPP supports the rights of peoples who live in forests and depend on them for their livelihoods, working to create political space for forest peoples to secure their rights, control their lands and decide their own futures.

Natural Justice – Lawyers for Communities and the Environment specialises in human rights and environmental law in Africa in pursuit of social and environmental justice. Natural Justice conducts comprehensive research on environmental and human rights law, supporting Indigenous peoples and local communities and their supporting organisations, providing technical advice to governments and intergovernmental organisations, and engaging in key international processes.

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SwedBio is funded by the Swedish International Development Cooperation Agency (Sida)