

- UNPFII recommendations & environmental defenders
- Who comes first?
- ICCAs

WG8(j) Agenda Item 8: “Recommendations of the UN Permanent Forum on Indigenous Issues”

## Recommendations of the UN Permanent Forum on Indigenous Issues

### Environmental defenders

*Statement by the ICCA Consortium, Natural Justice, USC Canada, Global Forest Coalition, Ecoropa, Uusi Tuuli & Mexican Alliance for Biodiversity*

[...] We wish to raise an additional issue that was not included in WG8J/10/9 but is highly relevant to the CBD, particularly in the work on main streaming biodiversity in key industries.

Earlier this year, the 16th session of the Permanent Forum had a dialogue with the Special Rapporteur on the rights of Indigenous peoples with regard to Indigenous human rights defenders. The Forum heard about impacts of industrial activities, including infrastructure projects, in Indigenous peoples’ territories without their free, prior and informed consent. The Forum expressed concern over the alarming rise in the killings of human rights defenders, with most related to land, indigenous and environmental rights. The Forum reiterated that States and the private sector must respect the human rights of Indigenous peoples by ensuring the effective implementation of the UN Declaration on the Rights of Indigenous Peoples.

In this light, we applaud the CBD Executive Secretary for her remarks on Wednesday morning when she called attention to the alarming trend of killings of environmental defenders. This further underscores the relevance to the CBD of the Permanent Forum recommendation on this

issue. We urge Parties to carefully consider this recommendation and the Executive Secretary’s remarks about environmental defenders, particularly in the context of CBD negotiations on mainstreaming biodiversity in key sectors such as mining, energy, infrastructure, agriculture,

forestry and fisheries. We encourage Parties to include the following new text in the draft recommendation:

*Concerned* about the alarming trend of killings of environmental defenders, particularly indigenous peoples and local communities who are defending their territories, lands and waters,

*1.bis Requests* the Inter-agency Support Group on Indigenous Issues to take up the issue of environmental defenders, including indigenous defenders, pursuant to paragraphs 73-76 of the report of the sixteenth session of the UN Permanent Forum on Indigenous Issues, as part of the UN’s system-wide action plan on the UN Declaration on the Rights of Indigenous Peoples; and

*1.ter Urges* Parties to protect environmental defenders across the work of the Convention, including in the ongoing work to mainstream biodiversity in key sectors.

---

### UNPFII recommendations

*Statement by the Global Forest Coalition, USC Canada, Natural Justice, ICCA Consortium, Ecoropa, econexus & Japan Civil Network for the UN Decade on Biodiversity*

[...] According to para. 8, the Permanent Forum did not address any specific recommendations to the CBD from 2016-2017, but some of the general recommendations may be of relevance to the Convention. It then considers select recommendations of the Permanent Forum in paras. 9-21. ►

However, WG8J/10/9 does not refer to an important UN-PFII recommendation on conservation and human rights, which is directly relevant to the CBD. In the report of the 16th session of the Permanent Forum, para. 33 states:

“The Permanent Forum has made a number of recommendations, in particular at its seventh and ninth sessions, on conservation and human rights, which to date remain largely unimplemented. Particular attention has been given by the Forum to the critical issue of free, prior and informed consent of indigenous peoples in establishing and managing any protected area that affects their territories, livelihoods and resources. Those recommendations should be implemented urgently, considering the continued infliction of human rights violations on indigenous peoples in relation to conservation measures.”

This and previous Permanent Forum recommendations on this issue are of crucial importance to the CBD. Despite many improvements globally, protected areas continue to have a negative impact on Indigenous peoples and local communities, including women, in many countries. These Permanent Forum recommendations relate closely to

commitments to mainstream Article 8(j) and related provisions across the Convention, and to COP decisions on governance and equity in protected areas. Most recently, for example, Decision XIII/2, para. 5(viii) invites Parties, when establishing new or expanding existing protected areas or undertaking other effective area-based conservation measures, to involve the full and effective participation and seek the prior informed consent of Indigenous peoples and local communities “whose territories, areas and resources overlap wholly or partially with the protected areas”.

In this light, we encourage Parties to include the following new text in the draft recommendation:

*Urging* Parties to implement the Permanent Forum recommendations on conservation and human rights, giving special attention to paragraph 33 in the report of the sixteenth session of the Permanent Forum, and CBD COP decisions related to protected area governance and equity with immediate effect, and to report on them in the forthcoming sixth national reports and fifth edition of the Global Biodiversity Outlook.

\*We have a little more than 1000 days to achieve our Aichi targets so there's no time to lose. SB-STTA 21 is over but our diversity is still out there waiting for humanity to shift paths to live in Harmony with nature.

Our jobs are certainly not done yet, and as we wish everybody save flights, we also encourage to continue with the spirit, to keep coherence between what we say here and what we do in our lives as each individual action is also political decision. Let's decide on a future in Harmony with Nature.

*Gadir Lavadenz, CBD Alliance coordinator*



*The opinions, commentaries, and articles printed in ECO are the sole opinion of the individual authors or organisations, unless otherwise expressed.*

**Submissions** are welcome from all civil society groups.

**Email:** [lorch@ifrik.org](mailto:lorch@ifrik.org), [gadirlavadenz@gmail.com](mailto:gadirlavadenz@gmail.com)

# Who comes first in a “first world” country?

Liz Wass

After attending the first day of the 10th Meeting of the Ad Hoc Open-ended working group on Article 8(j), my first UN CBD conference, I have been inspired by parties and IPLC’s who are committed to maintaining both Indigenous knowledge and biodiversity.

There are over 600 distinct First Nations in Canada, 198 of which are in British Columbia (BC). Canada is rich in natural resources, which comprises of 16% of the GDP and creates 1.74 million jobs. It is challenging to navigate natural resource development while maintaining economic integrity and Indigenous rights. This requires careful balance social, economic, and environmental values. Unfortunately, this balance is not always achieved.

Likely is a small, rural town in northern BC, situated at the mouth of Quesnel Lake - a glacier fjord that is claimed to be the deepest in the world. Steelhead salmon, rainbow trout, lake trout, and myriad other fish and wildlife species inhabit this area. There are several towns, settlements, and Indigenous groups that rely on this lake for fresh, clean drinking water.

There is a mine in Likely that is an important economic contributor to the community: *Mount Polley*, owned by Imperial Metals. In August 2014, the tailings pond for the mine broke and flooded Quesnel Lake and its tributaries with 24 million cubic meters of contaminated slurry. Heavy metals are difficult to analyze in a water system, and the effects of the spill cannot be quantified for many years. This event has been labelled as one of Canada’s worst environmental disasters.



Source: [www.clayoquotaction.org](http://www.clayoquotaction.org)

Prior to the spill, an inspection was conducted which found that the tailings pond, where the waste material for the mine is contained, was at risk to fail. Recommendations followed to improve the tailings pond to ensure a spill was avoided. These recommendations were not followed, and the tailings pond broke. There were no fines or criminal charges applied to Imperial Metals, although there was proof of flawed dam design, poor practices, and negligence. Imperial Metals was not able to pay for the clean-up of the Mount Polley spill, estimated at \$67.4 million Canadian dollars, and proceeded to claim bankruptcy.

The BC government bailed out Imperial Metals. Mount Polley reopened, and was granted approval to dump treated mining waste directly into Quesnel Lake. Instead of Canada’s largest environmental disaster, the aftermath of the Mount Polley spill has been relabelled as an “environmental success story”.

Three years after the catastrophic spill, there are still concerns about the water quality of Quesnel Lake. There are also concerns regarding the regulation and inspection of the mining industry in BC. Community members and groups such as the First Nations Women Advocating Responsible Mining (FNWARM) speak to the lack of knowledge about mining risks. The BC Auditor General led a two-year investigation of the Mount Polley spill, and found that the regulations are inadequate to protect BC from future environmental disasters.

I urge Canada to seriously consider the risks to Indigenous well-being and the environment as we continue to develop and extract natural resources. We should be a leader as a “first world” country, but who is coming first? It is not the Indigenous peoples of Canada, nor is it the environment. Stronger regulation, enforcement, risk assessments, and consequences are necessary to ensure future generations are able to thrive. If Canada wishes to actualize the commitments to the biodiversity targets, we must stop compromising the integrity of the environment and Indigenous cultures for short term, economic gain.

See also [www.miningwatch.ca](http://www.miningwatch.ca)

## ICCAs

*Statement by the ICCA Consortium and Global Forest Coalition*

We thank the Secretariat for preparing the document for this agenda item. We appreciate the inclusion of the term “ICCAs” in para. 19 and in the Annex of the glossary. This term has been used in many COP decisions since 2004, including on protected areas, Article 8(j) and related provisions, financing and resource mobilisation, sustainable development, ecosystem conservation and restoration, climate change, agricultural biodiversity, and taxonomy. ICCAs contribute significantly to the CBD and Strategic Plan. It is thus important for Parties to have a clear understanding and description of ICCAs.

As a brief introduction, “ICCA” is a generic term for thousands of different names in diverse local contexts. They are essentially territories of life – the basis of countless peoples’ and communities’ identities, cultures and ways of life. In addition, it has been estimated that ICCAs may coincide with 80% of the planet’s biodiversity, and may equal or exceed the number and extent of state protected areas.

Three main characteristics of ICCAs can be identified:

- (1) an Indigenous people or local community has a close and profound relationship with a particular territory, area or habitat;
- (2) the people or community has been de facto governing this area; and
- (3) their management decisions and efforts contribute to conservation and sustainable use, regardless of their primary motivations.

It is important to note that ICCAs exist regardless of whether they are recognised by states or other external actors. In some situations, Indigenous peoples and local communities may want their territories and areas to be recognised within state frameworks for protected and conserved areas. In other cases, they may not want such recognition, and they may pursue other forms of recognition that would be more appropriate in their context. Indigenous peoples’ and communities’ rights, including to free, prior and informed consent, must be respected in any efforts to recognise and support their conserved territories and areas. The

ICCA Consortium understands conservation as including sustainable use.

We broadly agree with the description of ICCAs as contained in the draft glossary, but we would like to recommend two changes.

First, the draft glossary currently spells out ICCAs as: “Indigenous peoples’ and local communities’ community conservation areas”. In order to streamline this term and reflect the phrasing used in the latest COP Decisions, we recommend that Parties revise this term in the glossary to: “Indigenous peoples’ and community conserved territories and areas”.

Second, the draft glossary states the following at the end of the description of ICCAs: “Territories (lands and waters) and areas conserved by indigenous peoples and local communities are also referred to as indigenous peoples’ protected areas (IPAs).” IPAs – particularly known as a specific type of protected area designation in Australia – could be a type of ICCA as well, but they are not necessarily the same. To avoid any confusion, we recommend that Parties change this sentence in the glossary to the following: “Territories (lands and waters) and areas conserved by indigenous peoples and local communities could potentially be recognised as protected or conserved areas, subject to their free, prior and informed consent and national circumstances.”

In closing, we applaud the efforts of Parties that are striving to recognise ICCAs at national and sub-national levels, often in very challenging contexts. We stand ready to assist custodians of ICCAs and Parties to appropriately recognise and support ICCAs. We encourage Parties, donors and others to refer to CBD Technical Series No. 64 for relevant guidance. Pursuant to Decision XIII/2, para. 7, the ICCA Consortium looks forward to working with relevant rights-holders and stakeholders to develop voluntary guidance and best practices on identifying and recognising ICCAs, including in situations of overlap with protected areas.

1 More information at [www.iccaconsortium.org](http://www.iccaconsortium.org).