OPDP strengthens capacities of Africa’s IPs rights advocates to champion for implementation of ABS and FPIC

Ogiek Peoples’ Development Program (OPDP) held a workshop in Tanzania’s city of Arusha on October 2-4 focusing on strengthening the capacity of Indigenous Peoples’ (IPs) organizations in Africa to advocate for implementation of Access and Benefit-Sharing (ABS) mechanisms and Free, Prior and Informed Consent (FPIC).

OPDP was the host organization with Ujamaa Community Resource Team (UCRT) co-hosting the workshop. International Land Coalition (ILC) principally funded the workshop while through a grant, Land is Life made it possible for some women IPs activists to attend.

More than 50 participants from 10 countries representing the IPs organizations, development partners and government agencies from East Africa, West Africa, Central Africa and Sudan were in attendance. OPDP is the lead organization on IPs issues under the ILC-Africa Chapter.

The workshop involved discussions on ILC’s fifth Commitment Based Initiatives (CBI 5); ABS concepts and guidelines and its necessity among the indigenous communities in Africa and Africa perspective on indigeneity and human rights and development in Africa.

Further, focus was also put on regional mechanisms for ABS; African Union Strategic Guidelines for the Coordinated Implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of the benefits arising from their utilization, application of the ABS and the Free Prior Informed Consent (FPIC) in Africa as well as the role of IP organizations and communities in developing ABS/FPIC protocol through community protocols.

Additionally, gaps and areas of conflicts for ABS between the IP communities, the State and the investors were explored. The participants also presented respective country perspectives on policy and legislative framework on ABS as well as their experiences in its application.

There was also a learning exchange visit to Selela village in Tanzanian’s northern district of Monduli where UCRT has safeguarded the land rights of the Maasai through an innovative model of issuing Certificate of Customary Rights of Occupancy (CCRO) by which the community becomes a collective owner of the land and determines its use.
OPDP’s Executive Director Daniel Kobei opening remarks

In his opening remarks OPDP’s Executive Director Daniel Kobei said the workshop was realigned with the ILC’s CBI 5 which focuses on securing territorial rights for the IPs.

He reiterated the discussions to be very critical to building the capacity of the IPs towards establishing local based mechanisms for effecting ABS and ensure the communities benefit and progress.

“It is critical to look into ways of protecting territories within which the IPs live as they are rich of resources necessary to the advancement of indigenous communities.” He said.

Safeguarding IPs rights to the natural resources

UCRT’s Programme Coordinator for Simanjore district Edward Loure echoed the importance of having discussions on strategies applicable to safeguarding IPs rights to the natural resources.

He added: “The Training on ABS and FPIC will help local and indigenous peoples’ communities, private sector companies and governments ensure compliance with the Bonn Guidelines and ABS requirements under the Convention on Biological Diversity (CBD).”

Kobei expressed great appreciation for ILC’s financial support in organizing the workshop. He also thanked Land is Life for its Indigenous-Led Grant which enabled OPDP to boost the workshop’s participatory bandwidth.

Lucy Mulenkei, Indigenous Information Network Executive Director

Lucy Mulenkei, Executive Director of the Indigenous Information Network (IIN) led discussions on ABS concepts and guidelines and its necessity among the indigenous communities in Africa. She also dissected the role of IP organizations and communities in developing ABS/FPIC protocol.

She underlined how the CBD was established and the IPs contribution to ensuring that their interests were incorporated in the final document.

“We (IPs) had to lobby to work together and raise our voices collectively as a united Indigenous Peoples,” she said.

Inclusion of the ABS in the CBD is a success for the IPs that they ought to capitalize on to shape their own engagements with the investors and the governments, she said.
Mulenkei said it is difficult to operationalize international laws on ABS and FPIC without the guidance of domestic laws.

In this regard, the role of the IP organizations is therefore significant in engaging in country-level advocacy to ensure governments come up with appropriate laws and effect them, she remarked.

“Communities that own these resources do not also know about these protocols. The locals need to be informed of what ABS and FPIC is all about and how they can utilize them when seeking for benefit sharing,” she said.

**Perspective on indigeneity and human rights and development in Africa**

Elifuraha Laltaika, who represents Africa’s IPs in the United Nations Permanent Forum on Indigenous Issues (UNPFII) took the participants through the Africa perspective on indigeneity and human rights and development in Africa.

He noted wildlife conservation and agricultural developments as major conflicting issues pitting against the land rights of the IPs in Africa.

“We see a lot of problems emanating from pastoralists’ lack of land to graze because their land was taken for other interests such as wildlife conservation and expansion of agriculture,” he said.

He said development priorities that are inconsiderate of the IPs interests endanger their progress with a long-term consequence being extreme poverty.

Aspirations for universal equality underscore inclusion of the unique aspects of the IPs so that they are similarly uplifted from the marginalized status as the world progress, he accentuated.

**Nagoya Protocol**

Lesle Jansen, Director of Natural Justice elaborated on regional mechanisms for ABS; African Union Strategic Guidelines for the Coordinated Implementation of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of the benefits arising from their utilization. Jansen further insighted on application on ABS and FPIC.

Nagoya Protocol has guaranteed community rights in relation to sharing of benefits accrued from the genetic and biological resources, traditional knowledge and self-governance through the customary laws, she said.

She said IPs have a right to FPIC since they are the owners of the biological and genetic resources investors are searching for.

Her advice was for the indigenous communities to establish their own community protocols to provide a framework for negotiating and agreeing on benefiting sharing with the governments and the investors.

**Community empowerment**
In his remarks, Kenya’s National Land Commission (NLC) Chairman Prof. Muhammad Swazuri said while communities are owners of the genetic and biological resources, they cannot fully benefit from them if they are unaware of the frameworks governing their access and use.

He said Article 11(2b) of the Kenyan Constitution recognizes the role of science and indigenous technologies in the development of the nation hence the importance of transferring knowledge and information on the relevant guidelines to indigenous communities.

“Actually, the communities do not know about these protocols and conventions. It is very important that they are empowered with these information to be able to understand how to benefit from their own resources,” he said.

### Gaps on ABS and FPIC implementation

In exploring gaps and areas of conflicts for ABS between the IP communities, the State and the investors; Shadrack Omondi, Executive Director of the Resource Conflict Institute (RECONCILE), noted that when government development priorities differ from those of the communities, grassroots economies stagnate and the locals suffer the consequences.

Deficiency of information and knowledge on ABS and FPIC among the implementing stakeholders including the communities and line government ministries and agencies makes the process of actualizing its provisions futile, observed Shadrack.

Conflicts are bound to occur when none of the said backers are unaware of the existing protocols and conventions guiding on execution of ABS and FPIC.

“Robustness (on advocating for ABS/FPIC implementation) at the international level defers from that at the country level. There is some kind of a loose link between the two and that needs to concern the IPs, practitioners and the civil society,” he said.

There must be strong structures for implementation of ABS and FPIC to be successful and beneficial to the community, Omondi stated.

### Country-level discussions

From presentations on country-level perspectives on policy and legislative framework on ABS merged with experiences regarding application of the respective provisions, it was observed that at least 50 African countries out of the 55 recognized by the African Union have ratified the Nagoya Protocol and domesticated it. Importantly, that the indigenous communities were utilizing the guidelines to gain value of own genetic and biological resources.

Representatives of IPs organizations from Cameroon, Congo, Nigeria, Kenya, Tanzania, Uganda, Botswana, Burundi, South Africa and Sudan made the presentations.
For instance in Cameroon, two genetic resources - Echinops giganteus and the mondia whitei - have been identified and are being exploited under the ABS process.

However, in other countries, community established bio-cultural to guide on exploitation of the genetic and biological resources with respect to the communities’ values and norms were non-existent.

For example, Uganda ratified Nagoya Protocol in 2014 but there lacks bio-cultural protocols or other community procedures on utilization of the said natural resources.

Way forward

Balkissou Buba, vice national coordinator of Repaleac Cameroon, a network of indigenous and local communities that work for sustainable management of forest ecosystems in the Western Africa country; said the workshop offered a great platform for learning best practices in advocating for the land rights of the IPs in Africa.

By sharing country-level experiences on status of implementation of ABS and FPIC, the IPs rights advocates became more knowledgeable on appropriate approaches to apply in spearheading for IPs social justice, she said.

Edward Porokwo, Executive Director of Pastoralists Indigenous Non-Governmental Organizations (PINGOs) Forum in Tanzania, said it was important to discuss about application of ABS and FPIC in Africa considering the growing extraction of natural resources in the region.

He therefore noted the importance of establishing an ABS policy framework to to ensure communities benefit from wealth generated from natural resources in their localities.

Learning Exchange Visit

The participants visited Selela village in the district of Monduli in northern Tanzania where they learnt from the locals of how Certificate of Customary Right of Occupancy (CCRO) has secured them communal right to land and how they manage it through the community by-laws.

The area is primarily inhabited by Maasai, a pastoralist community which had no previous entitlement to land. However through UCRT’s advocacy efforts, the indigenous community has managed to secure the CCRO permitting the members to collectively decide how to utilize the land. The CCRO has been issued to the community instead of the individuals making it possible for the community to live in harmony with one another.

Memorable quotes from the workshop

“We share homes, we share pasture lands, and we share everything. Conservation is for our interest – we’ll fight to have the animals survive, because we love them.

“Elifuraha Laltaika

Indigenous Peoples of Africa Representative to the United Nations Permanent Forum on Indigenous Issues (UNPFII)
“Land is like blood, if you don’t have it, you don’t sleep soundly.” ~Lucy Mulenkei

*Indigenous Information Network, Executive Director*

**Documenting Ogiek communal land claims**

Through a partnership with NAMATI, Ogiek Peoples’ Development Program (OPDP) has succeeded in documenting communal land claims of the Ogiek in readiness to securing communal land tenure rights.

The pilot exercise carried out under the Community Land Protection (CLP) involved mapping of land dwelt on by the Ogiek and developing by-laws pegged on widely accepted customary rules.

CLP blends into OPDP’s key thematic area of land and natural resources rights advocacy clearly outlined in its strategic plan (2016-20).

The project run from Nov 2015 to June 2017 with the achievements being establishment of two maps representing documented land in Sasimwani (Narok County) and Koibatek (Baringo County) together with by-laws that not only borrow from the customary rules but are also realigned with the Constitution and the Community Land Act (2016).

In recent discussions with NAMATI’s Chief Executive Officer (CEO) Vivek Maru and CLP Director Jaron Vogelsang, there was a provisional agreement of extending CLP to 12 other ancestral areas inhabited by the Ogiek.

Although both the maps and the customary rules are yet to be officially adopted by the community, it is on OPDP’s immediate plan to engage the community and experts further on this matter consequent to their approval.

OPDP and NAMATI used a mobile GPS application in taking stock of the land and mapping of Ogiek ancestral land on a pilot basis on the mentioned locations.

For more than 30 years the Ogiek, who mainly live within the Mau Forest Complex have struggled to reclaim their rights to their ancestral land having been frequent victims of State evictions.

It is in the vision of OPDP to see each one of them become a legal land owner and progress in all spheres of life.

Apart from enabling the community develop own-binding laws and maps, OPDP has made tremendous achievements towards safeguarding the community’s rights to land and natural resources.

Remarkably, it is through OPDP’s relentless efforts that the community’s land rights related suit against Kenyan government was filed and determined on May 26, 2017 at the African Court on Human and Peoples’ Rights based in Arusha, Tanzania.

Ruled in favour of the community and reparation orders made to the State, the Ogiek are now waiting-in-queue legal land owners.

Daniel Kobei, OPDP’s Executive Director said the by-laws have further united the community to fights for their own land rights.

He said formation of the by-laws was preceded by sensitization of community on Kenya’s land related laws thereby widening their understanding on provided
legal mechanisms of acquiring land.

“The community is more empowered when it is knowledgeable on their land tenure rights,” he said.

Sanitary products initiative supporting Ogiek girls climb the education ladder

Ogiek Peoples’ Development Program (OPDP) in collaboration with ZanaAfrica Foundation has managed to support approximately 1,500 teenage girls in both primary and secondary schools with sanitary towels and underpants through a partnership program instituted under Girl Empowerment Project.

The partnership which started in April, 2015 has benefited the less privileged pupils and students in a total of 12 schools in the Eastern Mau region.

The Girl Empowerment Project is anchored on OPDP’s overall program of Gender and Youth Empowerment provided for in its 2016-20 Strategic Plan, the blueprint of its broader activities.

The project seeks to improve the sexual and reproductive health of in-school adolescents (aged 10-20). The project has a special focus on young girls who are more vulnerable and are at risk of HIV infections, teenage pregnancy, FGM, early marriages and have limited access to comprehensive sexuality education.

Studies have shown that girls miss up to seven weeks of study time out of the school calendar, a problem that has been linked to lost concentration thereby affecting their overall performance.

Eunice Ndung’u, OPDP’s Finance and Administration officer who has been overseeing implementation of the Partnership Program said management of benefiting schools has been supportive and grateful for the distribution of the sanitary towels.

“A lot of the girls missed classes during their menstruation days as they didn’t have sanitary towels to use and hence preferred to stay home throughout the three to five days period time,” said Ndung’u.

She said OPDP was devoted to preventing teenage pregnancies among the Ogiek girls and motivate them to pursue higher education.

“Most girls as young as 11 years are impregnated by elderly men who promise them material things such as the pads; not forgetting that this also exposes them to sexually transmitted diseases such as HIV/AIDS,” she said.

“When this problem is eliminated, we bring the girls closer to achieving their dreams of ascending the education ladder,” she added.

The initiative incorporated educating the girls on menstrual hygiene and molding their self-esteem.

“We have realized that the girls’ confidence was built after we held interactive and participatory sessions with them,” she said.

“We allow them to freely express themselves before the rest, brainstorm, ask and respond to questions. This enables them to activate their minds and think through the challenges they face as girls and come up with their own solutions,” she said.
In order to ensure consistent support to the initiative, OPDP has held meetings with the schools’ management to review the progress made and will continue to follow up with consultations in that regard.

Empowering women activists to lead in advocacy for IPs rights in Africa

In efforts to empower women activists championing for the rights of Indigenous Peoples’ (IPs) in Africa, Ogiek Peoples’ Development Program (OPDP) partnered with Land is Life to sponsor their attendance in an Africa regional workshop held in Arusha, Tanzania.

OPDP managed to successfully host five women IPs’ rights campaigners from Kenya and DRC Congo in the three day (October 2-4) workshop themed ‘Access Benefit Sharing (ABS)’, courtesy of the Land is Life’s Indigenous Led Grant.

The workshop was a convergence of IPs rights advocates, State Agencies and experts from 10 African countries well versed in matters of land and natural resources sharing as well as IPs issues.

It gave the women the opportunity to learn more about the existing international, regional and national regulations guiding on the access, ownership and utilization of the natural resources available within the IPs land territories. Also the local based mechanisms to explore in pursuing recognition and respect of IPs rights especially to land and natural resources.

OPDP was able to organize the workshop through the financial support of International Land Coalition (ILC) which has outlined 10 Commitment Based Initiatives (CBI) that shape members’ project implementation. CBI 5 emphasizes on securing territorial rights for IPs, the objective that fully underlines the basis of the workshop.

However, ILC also gives weight to promoting women rights such as enjoyment of land and property rights, an interest area that matches with OPDP’s work and passion.

Access and Benefit-Sharing (ABS) which roots from Nagoya Protocol is never discussed in separation from Free, Prior and Informed Consent (FPIC), a mechanism which requires consultation with resource owners subject to permission for access and utilization.

ABS and FPIC were primarily discoursed during the workshop giving credence on significance of involving all stakeholders especially the women in addressing concerns arising from reluctance to implementation or non-implementation of both resource-connected mechanisms.

The workshop equally entailed an exchange visit to Selela village in Monduli district where OPDP’s co-host organization in the ABS workshop has capitalized on Tanzania’s laws on land to facilitate issuance of communal title deeds to indigenous community of Maasai.

Selela village council constitutes of 25 members out of which seven are women. It is a legitimate institution recognized in the Tanzania’s legislative framework and which is rightfully bound to legislate and implement territorial laws.

During the council’s meetings, the women’s voice is heard and integrated into
the final decisions agreed upon.

Eunice Chepkemoi, OPDP’s Gender and Youth Officer said learning how the women were involved in Selela village council was a best practice picked up from the exchange visit that the women activists would firmly advocate for in their respective endeavors.

“We are bound to succeed in the fights for IP rights when we have more and more women campaigners at the local, regional and international levels well knowledgeable on the needs and interests of IPs not only in their respective countries but across the world. That is why we continue to prioritize them in our projects.”

“It is an effort made towards the right direction when women are put at the centre of decision making in issues relating to land and natural resources,” she said.