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NEWS RELEASE

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UNU Report: End Catch-22 for Indigenous People

To Protect Traditional Knowledge Ancient Secrets Must be Placed in Public Domain

Report outlines ways for world community to prevent bio-piracy and respect culture

UNU-IAS Director A.H. Zakri and report authors Brendan Tobin and Alphonse Kambu, together with representatives of the Call of Earth Circle, will take part in a news conference at 12.30 p.m., Thurs. Feb. 19, Press Conference Room, Level 4, Putra World Trade Centre, Kuala Lumpur. For phone interviews, please call or email to schedule a time.

A new UN University report recommends vital changes to international law to eliminate a modern absurdity for indigenous people who possess highly valuable ancient knowledge about medicinal and other uses of plants: a Catch-22 requirement that, in order to protect their secrets, they must put them in the public domain for all to see.

Existing international rules about protecting intellectual property rights are an affront to the culture and customs of many indigenous peoples and need to be revamped, according to the report¹, by the Tokyo-based UNU Institute of Advanced Studies.

It says that, to decide whether a new product seeking patent protection is novel or based upon traditional knowledge, officials require free access to indigenous secrets. Several countries have inventoried traditional knowledge in publicly-accessible databases for this purpose as a way to prevent its commercial theft.

¹ "The Role of Registers and Databases in the Protection of Traditional Knowledge." The full text is online at: http://www.ias.unu.edu/binaries/UNUIAS_TKRegistersReport.pdf

In many indigenous cultures, however, traditional knowledge is highly guarded, passed down from one generation to the next through codes of conduct and customary law, frequently including initiation rights as a prerequisite for receiving the information.

Obliging indigenous people to offer public documentation of TK for intellectual property protection purposes is insensitive to centuries-old cultural practice in many places and may lead to injustice, the report says.

The report cites by example a legal challenge to a patent over Ayahuasca, a rainforest plant used in spiritual and cultural ceremonies, in which US patent regulators refused to accept the oral evidence of an Amazon shaman about his people's traditional knowledge of the plant's healing properties.

“The challenge for the world community is to devise a process to prevent the piracy of traditional knowledge without jeopardizing the cultural integrity and ways of indigenous peoples,” says report author Brendan Tobin, coordinator of the UNU-IAS Biodiplomacy Initiative².

This may require following the example of the Inuit, who maintain a very high level of secrecy over their TK registers but grant government officials confidential access to the information as necessary.

Released at a global meeting of Parties to the UN Convention on Biological Diversity, taking place in Kuala Lumpur, the UNU report recommends:

- Allowing oral evidence of traditional knowledge;
- Establishing means for such evidence to be given in a confidential manner; and
- Providing for limited and restricted access to confidential databases.

The report says registers and databases developed and held by indigenous groups, museums, botanical gardens and universities, among others, are essential for protection of traditional knowledge.

However, these groups and institutions need a common code of conduct – obtaining, for example, explicit acceptance of the rights of indigenous peoples over their TK as a pre-condition of access to the information. The report calls for databases held by non-indigenous peoples to be managed with

² The UNU-IAS Biodiplomacy Initiative identifies and conducts research into the challenges of such emerging issue areas as bioethics, biotechnology, biosafety, access and benefit sharing, biopiracy, traditional knowledge, and genetically modified organisms. It is also involved in agriculture for peace, and the scientific assessment of ecosystems. The creation of safe, equitable mechanisms and institutions to effectively guide the development and use of biotechnology, as well as the equitable sharing of benefits derived from genetic resources are among the Biodiplomacy Initiative's top priorities. For additional details: <http://www.ias.unu.edu/research/biodiplomacy.cfm>

the participation of indigenous people in a form trusteeship for their benefit.

It calls on national governments and international organizations to:

- Review existing laws and policies to develop more culturally sensitive search procedures related to TK;
- Require that companies demonstrate prior informed consent as a condition for scientific or commercial use of TK;
- Ensure that intellectual property rights are supportive of the UN Convention on Biodiversity and of international human rights;
- Engage indigenous peoples in developing TK registers worldwide and a regime for protecting the information.

Recruit and train managers of parks, protected areas to prevent bio-piracy

In a related report³, UNU-IAS says managers of parks and other protected areas, especially in developing countries, require training to guard against the modern threat of biopiracy and to help ensure that the exploitation of genetic riches in their custody creates local benefits.

The new study warns that most countries have no well-developed regulations and policies to govern access to their national biological resources nor rules with respect to sharing locally the benefits derived from biodiversity research and prospecting.

This regulatory vacuum, coupled with the new demand for plant and animal genes that might be the basis for new pharmaceuticals and other products, threatens problems of bio-piracy – the smuggling of flora and fauna and the expropriation and monopolization of the knowledge and resources of traditional populations.

This situation “brings new obligations to those serving as ‘gatekeepers’ of national biological and genetic resources,” the report says. These gatekeepers include local-level bodies and the managers of protected areas.

These groups are now responsible for new and widely accepted requirements for documented prior informed consent, reaching mutually agreed terms and ensuring the equitable sharing of benefits from both academic and commercial research.

3: “Biodiversity Access and Benefit-Sharing for Protected Areas.” The full text is online at http://www.ias.unu.edu/binaries/UNUIAS_ProtectedAreasReport.pdf

“Overworked, under-funded and often beleaguered protected area managers have understandably been slow in taking up ABS issues, which are not only complex but often also contentious,” the report says.

UNU-IAS director A.H. Zakri says that, despite the number of bioprospecting ventures worldwide, few countries have established policies and legislation to govern and regulate this “gene rush.”

Managers of several provincial protected areas in South Africa have chosen to await development on national Access and Benefits-Sharing measures, refusing commercial collections until national legislation is in place. By contrast, the South African National Parks and Ezemvelo KwaZulu–Natal Wildlife have developed general bioprospecting policies as part of broader policy initiatives.

In Bwindi National Park in Uganda, Waza National Park in Cameroon, and Tai National Park in Cote d’Ivoire, protected area managers have established interim protocols for research collaborations, laying the groundwork for more equitable academic and commercial partnerships.

The response from protected area managers and policy makers to such Access and Benefit-Sharing issues to date “has largely been *ad hoc*, but this is likely to change in the coming years since protected areas remain a favored site for biodiversity research and bioprospecting, while the policy context is in a state of flux,” according to the report. “Protected area policy makers thus need to provide guidance and assistance to protected area managers to deal with these issues in a more standardized and comprehensive manner.”

Says Prof. Hans van Ginkel, UN Under Secretary-General and Rector of UNU: “We must learn the lessons of previous resource exploitation ventures, many of which produced significant wealth for some but little or no lasting benefit to the local population and the area in which those resources were found. Under the right conditions, biodiversity prospecting has the potential to make enormous contributions to environmental protection and sustainable economic development.”

The report offers several recommendations to protected area managers regarding bioprospecting in areas under their control.

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UNU Institute of Advanced Studies

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address strategic issues of concern for all humankind, for governments and decision makers and, particularly, for developing countries.