

**"Indigenous Peoples and Burma's NBSAP:
A Strategy for Participation"**

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Introduction

Burma has recently begun to embark on the NBSAP (National Biodiversity Strategy Action Plan), which was launched with an inception meeting in the country and a pending GEF (Global Environment Facility) application for enabling activities (i.e., 'stocktaking'). However, despite specific articles in the CBD (Convention on Biological Diversity) (e.g., Article 8(j)), and guidelines for NBSAP and GEF funding principles, the current NBSAP process in Burma thus far marginalizes indigenous people's contribution to biodiversity conservation.

While acknowledging the efforts of current stakeholders in national biodiversity conservation efforts, this paper highlights the pitfalls of the current process and provides recommendations for improvement.

The first concern relates to exclusion of indigenous peoples of Burma and environment groups with indigenous representation based both inside as well as outside of the country from the NBSAP process. UNEP ROAP (United Nations Environment Program in the Asia-Pacific Region, based in Bangkok) and its national partners in Burma are, as a result, compromising CBD principles relating to indigenous peoples' rights.

Other issues of concern that require attention to successfully conserve the country's biodiversity include: Burma's ethnic political conflict, Burmese junta resource concessions, human rights abuses linked to conservation efforts, lack of social and cultural elements (e.g., traditional knowledge, natural heritage, etc.) being addressed, and possible corruption and militarization of NBSAP implementation.

Recommendations aimed to mitigate these legitimate concerns are presented at the end of this paper: permitting an indigenous representative seat on the NBSAP coordinating committee, ensuring indigenous participation in NBSAP consultations, including indigenous knowledge as part of the stocktaking process, and pushing for good natural resource governance mechanisms and safeguards to ensure better compliance with NBSAP international standards. Burma Environment Committee based in Chiang Mai, Thailand will continue to monitor and try different tactics and levels of engagement with Burma's NBSAP process as it continues to unfold.

CBD and GEF Guidelines and Principles as relates to Burma ⁴

The CBD contains language that indicates the necessity of broad participation in national biodiversity preservation efforts. Article 8(j) of the CBD requires parties to the convention to "respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities" as part of biodiversity preservation,⁵ and this task cannot be done without the participation of indigenous and local

⁴ The authors are indebted to the International Human Rights Clinic at Harvard Law School's Human Rights Program (USA) which did literary research to craft this section, and assisted the Burma Environment Committee in working on indigenous issues as they relate to Burma's NBSAP.

⁵ Convention on Biological Diversity, *opened for signature* June 5, 1992, 1760 U.N.T.S. 79, 31 I.L.M. 818 (1992), available at <http://www.biodiv.org/convention/convention.shtml>.

communities. Article 10 notes the role of nongovernmental stakeholders including local populations and the private sector in sustainable development.⁶

By emphasizing the importance of biological resources to the livelihoods of indigenous communities, the CBD brings to bear a human rights perspective on biodiversity. The preamble of the CBD, for instance, recognizes “the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources.”⁷ The most important substantive provision in the CBD relating to indigenous rights is Article 8(j), which obliges state parties to:

[R]espect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices[.]⁸

In highlighting indigenous and local peoples' livelihoods that closely depend on the health of their surrounding environment, as well as the distributional value of “equitable sharing,” Article 8(j) signals the impact of biodiversity management on human well-being. Article 8(j) also underscores the essential role of indigenous and local communities, with their extensive knowledge of animal and plant life, in implementing conservation strategies, and thus also reflects the increasingly significant place of democratic participation in international environmental law.

Following Principle 10 of the Rio Declaration, which holds that broad public engagement is essential for effective environmental protection,⁹ the CBD places considerable importance on encouraging democratic participation in decisions relating to biodiversity. The CBD provides for further protection for participation rights in Article 14, which requires states to conduct environmental impact assessments (EIAs) of projects that are likely to have significant adverse effects on biodiversity and to “allow for public participation in such procedures.”¹⁰ Article 8(j) also incorporates participatory objectives by encouraging the “approval and involvement” of indigenous and local communities in *in-situ* conservation while emphasizing the importance of “traditional knowledge, innovations and practices.”¹¹ That the Conference of the Parties (COP) recalled Principle 10 of the Rio Declaration before discussing Article 8(j)’s implementation¹² confirms that the CBD’s drafters saw participation as central to that provision.

GEF Financing

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* art. 8(j).

⁹ See Rio Declaration on Environment and Development, *supra* note 18.

¹⁰ *Id.* art 14(1)(a).

¹¹ *Id.* art. 8(j).

¹² Conference of the Parties to the Convention on Biological Diversity, Decision VI/10.

The GEF¹³ guidelines for financing CBD projects adopt the same integrated approach to biodiversity issues as the Convention as a whole. As the financial mechanism for the CBD,¹⁴ the GEF is obliged to “function under the authority and guidance of, and be accountable to, the Conference of the Parties for purposes of this Convention.”¹⁵ This implies that GEF decisions must respect the principles of indigenous rights and democratic participation expressed in the CBD and its interpretation by the COP. The GEF’s Programme Priorities and Eligibility Criteria,¹⁶ promulgated by the COP, stipulate which projects will qualify for funding. The COP establishes among these priorities “[p]rojects that strengthen the involvement of local and indigenous people in the conservation of biological diversity and sustainable use of its components”¹⁷—a parallel to Article 8(j) of the CBD, which calls on states to recognize the special role of indigenous communities in conserving biodiversity. Finally, like the Preamble and Articles 8(j) and 14 of the CBD, which promote participatory goals, the priorities emphasize “regional and local expertise”¹⁸ as well as “projects that strengthen the involvement of local and indigenous people” in biodiversity conservation.¹⁹

Like the GEF’s Programme Priorities and Eligibility Criteria, the Facility’s Operational Guidelines for the funding of CBD projects also reflect the Convention’s deep regard for values of indigenous rights, sustainability and participation. The operational criteria state that funded projects be conducted “in a participatory manner, involving a broad range of stakeholders such as relevant government agencies, NGOs, affected communities, in particular, indigenous peoples, and the private sector” and “address the social issues of affected populations at the same time that biodiversity conservation requirements are met.”²⁰ This includes the “[u]se of regional and local expertise.”²¹

The guidelines incorporate the principles underpinning CBD Article 8(j) by encouraging prospective grantees to emphasize the “assessment of capacity building needs for indigenous and local communities embodying traditional lifestyles.”²²

In summary, both the CBD and the guidelines governing the GEF, consistent with the era in which they were created, reflect international environmental law that integrates ecological interests with issues of human rights, social justice and democratic participation.

Current Status of NBSAP Process in Burma

¹³ Most western governments boycott Burma, led by the USA, who contributes about 20% of funds to GEF and houses the headquarters in DC.

¹⁴ *Id.* art 39.

¹⁵ *Id.* at Art 21(1).

¹⁶ Conference of the Parties to the Convention on Biological Diversity, *Policy, Strategy, Programme Priorities and Eligibility Criteria for Access to and Utilization of Financial Resources*, adopted by COP Decision I/2, Nov.-Dec. 1994 (Annex D to Revised Operational Criteria for Enabling Activities, 1997).

¹⁷ *Id.* art. III(4)(j).

¹⁸ *Id.* art. III(3).

¹⁹ *Id.* art. III(3)(j).

²⁰ Global Environment Facility, Revised Operational Criteria for Enabling Activities (1997), available http://www.gefweb.org/Documents/Enabling_Activity_Projects/documents/Revised_Operational_Criteria_for_EA-June_1997.pdf.

²¹ *Id.*

²² Global Environment Facility, Revised Operational Criteria for Enabling Activities 14(i) (1997).

Despite political constraints Burma currently is following-up on the CBD, which they signed in November 1995. Burma has written all three national biodiversity reports, but due to political reasons, was kept from engaging further on receiving funding for biological conservation through the GEF. However, a Memorandum of Understanding (MoU) was signed in January 2006 with the United Nations Environment Programme Regional Office of Asia-Pacific (UNEP ROAP) in Bangkok²³ to support the National Commission of Environmental Affairs (NCEA) in Burma with the development of their NBSAP through the Bali Strategic Plan for Capacity Building for Technology Support. The Burmese Ministry of Forestry, Forestry Department, Nature and Wildlife Conservation Division (NWCD) will act as a focal point and lead agency in the process. Burma is on the verge of filing a GEF Enabling Activities funding proposal application, through the UNEP ROAP, for GEF funding to prepare the NBSAP. NBSAPs are the primary mechanism through which state parties to the CBD fulfil their obligations, under Article 6 of the Convention, to engage in national biodiversity planning.

An inception workshop to start the NBSAP process was organized by the Forest Department in June 2006 in Yangon. Out of 149 invitees, there were 119 participants from over 44 organizations, departments, universities and institutes (50% government, 25% universities and 25% NGOs). Nine Ministries, Attorney General's Office, Academy of Agriculture, Fisheries & Livestock & Forestry, NCEA, international NGOs, national NGOs, universities and private sector were represented. The next steps to soon follow will focus on securing GEF funding for Enabling Activities and starting the "Stocktaking Process".

Based on the CBD guidelines for the NBSAP the structure proposed at the inception meeting consists of three main levels:

- *National Steering Committee* is a high level committee that has to ensure that the NBSAP gets fully integrated in government policy across sectors. It consists of high level officials from relevant Ministries. The proposed structure of the Steering Committee consists of the following: Ministry of Forestry, Forest Department (the Minister of Forestry will act as Chairperson of the steering committee); Ministry of Forestry, Planning and Statistics Department; Ministry of National Planning and Economic Development; Ministry of Agriculture and Irrigation; Ministry of Livestock Breeding and Fishery; Ministry of Forestry, NCEA; and NWCD.
- *Project Management Team* will manage the NBSAP process, including supervising the Working Groups. This team consists of the National Project Director, who heads the Project Management Team and the Project Manager, who is the key person to drive the NBSAP Process. The Project Manager will be assisted by a secretariat and at different steps throughout the NBSAP process by national and international consultants.

²³ UNEP specifically does NOT have an office in Burma (as opposed to the UNDP which does) for political reasons – not wanting to engage with the Burmese military dictatorship. However, working with the regime on the NBSAP counters their argument.

- *Thematic Working Groups* will provide technical assistance and assist in the stocktaking process. There are three thematic working groups with a different focus, including:
 1. *WG1 - Natural Resource Use*: Sustainable forestry, agriculture and biotechnology, fisheries, hunting and plant use.
 2. *WG2 - Conservation & Ecology*: Protected areas, species and habitats, research, monitoring, and data management.
 3. *WG3 - Social, Political, Economy*: Sustainable development and economics, law, institutions, MEAs, public awareness, and environmental education.

The structure was established at the inception meeting, but the actual identification of the key persons needs to be “discussed and agreed on a higher level.”²⁴ The Birdlife International, UNDP-Burma, and Critical Ecosystem Partnership Fund publication “Investment Opportunities for Biodiversity Conservation in Burma” in 2006 will be used as a baseline document for the NBSAP, according to UNEP ROAP. In addition, the third National Report of the CBD for Burma will also be used as a foundation for the NBSAP.²⁵ The “Thematic Working Group Stocktaking Process” will start taking place, including separate brainstorm sessions per thematic working group along with meetings among participants of each group, as well as requesting the heads of government agencies for overall information based on questionnaires, and visits and consultations by the national consultant to various resource persons.

In order to ensure full funding of the NBSAP process beyond the inception phase, a GEF Enabling Activities funding proposal has been prepared, with the technical help from UNEP ROAP. According to UNEP ROAP, “this proposal will be in accordance with GEF policies and procedures, which will meet standards and criteria for Biodiversity Enabling Activity”. The proposal is expected to be submitted in July 2007 once GEF has finished restructuring and ready to review NBSAP applications.

Identified Gaps between Principles Outlined in CBD / NBSAP / GEF and Conservation Practice in Burma

The major concerns so far related to the NBSAP process in Burma include:

1. Lack of opportunity for participation of indigenous peoples and environmental groups with indigenous representation based both inside Burma as well as along its borders;
2. The current ethnic political situation in Burma and SPDC-granted natural resource concessions;
3. Past and current conservation efforts by the Burmese regime being connected to alleged human rights abuses;

²⁴ This is according to UNEP ROAP who published the results of the inception meeting on the internet at <http://www.rrcap.unep.org/projects/bali.cfm>

²⁵ See online at www.biodiv.org/doc/world/mm/mm-nr-03-p1-en.pdf

4. The ecologically-centred conservation approach practiced by the main actors in the NBSAP process in Burma, at the expense of any social or people-focused concerns; and
5. The potential for environmental grants to strengthen the Burmese military's control over strategic high-biodiversity territories, and reduce indigenous people's access to and management of natural resources.

Opportunities for Indigenous Peoples' Participation

The NBSAP's internationally-recognized guidelines repeatedly stress the need to consult with all relevant stakeholders, the importance of equal benefits and access to resources, as well as consideration of indigenous knowledge. However, so far no indigenous peoples or environmental groups with indigenous representation inside or based outside of Burma have been consulted. This directly contradicts the principles of the CBD, the NBSAP guidelines and GEF mandates.

There are several compelling reasons to include indigenous peoples in environmental decision making at a national level. First, many indigenous peoples' possess traditional knowledge of Burma's environment, and without their input the biodiversity stocktaking process that Burma is currently engaged in is likely to be incomplete. The NBSAP process includes specific stocktaking categories for "access and benefit sharing", "food security", "community based natural resource management", logging, mining, energy and water. Not only do these categories deal with areas about which indigenous peoples could contribute important information, certain categories – namely "access and benefit sharing" and "community-based natural resource management" – also suggest that NBSAP processes were meant to include a broad range of participants, especially indigenous peoples and local communities.

Despite the "Thematic Working Group Stocktaking Process" including various threats to biodiversity, as well as the above mentioned categories, UNEP ROAP stated, "With the NBSAP [in Burma] we are obviously not going to touch the sensitive issues like logging, mining and hydropower."²⁶ UNEP ROAP as well as their partners inside Burma working on the NBSAP process are thus far purposefully excluding Burma's indigenous peoples working on environmental problems both from inside and outside Burma. And despite requests to UNEP ROAP for meetings with Burmese indigenous environmentalists based in Thailand, they have been denied so far. Although UNEP ROAP claims that no consultation with indigenous people from Burma is needed until *after* the GEF enabling activities application has been approved, it is surmised that the real hesitation for UNEP ROAP to engage is because the Burmese indigenous environmental groups take an overtly environmental rights approach, which runs contrary to how the SPDC wishes to align the process. UNEP ROAP was not aware of the Burmese environment NGOs operating from Thailand, but after explaining to them their environmental rights approaches, UNEP ROAP quickly retorted, "That information will never get in the NBSAP process."²⁷ This represents a clear example of international organizations bowing to the pressures of

²⁶ Interview, 2006

²⁷ Interview, 2006

the Burmese regime to orient their processes in accordance with the Burmese military agenda (i.e., unitary state-building). In this way, these organizations become implicated in any possible future conflicts, such as increased militarization of high-biodiversity territories, which could unfold as a result of the NBSAP implementation stages.

Moreover, many indigenous peoples have considerable experience working actively on environmental issues. They would bring this experience to bear in the NBSAP process by helping to create an effective plan for the management of the country's rich natural heritage. Purposefully excluding indigenous peoples (who comprise around 40 percent of the population in Burma) goes against the spirit of biodiversity protection, opposes decades of international efforts to include community participation, especially indigenous peoples, and hinders long-term biodiversity conservation.

Ethnic Politics and SPDC-Granted Natural Resource Concessions

Burma is a multi-ethnic country, rich in natural resources, and ruled by a military regime engaged in the world's longest running civil war. Natural resources are predominately concentrated along the frontiers with Thailand, China, Bangladesh and India, regions mainly inhabited by Burma's indigenous groups. However, since the Burmese military initiated its open door policy to encourage foreign investment in 1988 there has been ongoing unregulated exploitation of the country's natural resources.

A recent report by the Burma Environment Committee (BEC) outlines that:

Over the past two decades the natural environment has come under sustained attack from the Burmese military, armed indigenous political groups, Chinese logging and mining companies and multi-national corporations (MNCs). This has resulted in accelerated deforestation, soil loss, over-harvesting of fish and agricultural crops, and diminishing and degrading water resources from commercial mining, logging and fishing, promotion of monoculture plantations; and development of infrastructure, such as gas pipelines, mega-dams and roads.²⁸

Furthermore, numerous reports from ethnic Burmese environment organizations have documented large-scale natural resource extraction by Burmese regime-backed businesses in their communities.²⁹

The SPDC is one of the regimes most cited by the international community for egregious abuses of human rights. According to the latest UN Report of the Special Rapporteur on the situation of human rights in Burma, "Grave human rights violations are committed by persons within the established structures of the State Peace and Development Council and are not only perpetrated with impunity but authorized by law." Furthermore, and with serious implications for conservation projects in Burma, there exists "...widespread practice of land confiscation throughout the country, which

²⁸ Burma Environment Committee 2007:1.

²⁹ See ERI 2000; ERI & KESAN 2003; PKDS & KESAN 2004; Images Asia E-Desk & PKDS 2004; SEARIN and Salween Watch 2004; Nationalities Youth Forum (NYF) 2005; Karenni Development Research Group (KDRG) 2006; and Shan Sapawa Environmental Organization (Sapawa) 2006.

is seemingly aimed at anchoring military control, especially in ethnic areas. It has led to numerous forced evictions, relocations and resettlements, forced migration and internal displacement.”³⁰ Indeed, the U.S. Department of State’s most recent report on Burma alleges that the Burmese government’s human rights record “worsened” during 2006.³¹

Environmental degradation is closely related to human rights abuses at the hands of the Burmese regime.³² “Environmental issues in Burma have overlapping human rights issues: for example, the use of forced labor for projects, displacement, abuse of indigenous land rights, and no local participation or benefits are common concerns relating to natural resource exploitation throughout the country.”³³

The Burmese military frames environment issues within its own national fight for power, which enables environmentalism to support military-building projects. In this way, conservation projects carry the potential to support violent state-making projects in contested indigenous territories.

Conservation and Human Rights Abuse Linkages in Burma

Human rights abuses by the Burmese military have accompanied not only instances of environmental degradation but also the regime’s attempts at environmental stewardship. In the case of Burma, demarcating protected parks, often within indigenous areas, offers the Burmese Army justification for their presence in politically-contested land, often justifies forced human resettlement, and creates national military territories. There are potential economic, military and security advantages to large-scale conservation projects in Burma.³⁴ Military state-building activities can be transformed into seemingly ‘apolitical’ state conservation. Rezoning for conservation provides an apparently legitimate reason for the state to relocate populations, to control and patrol previously inaccessible areas of contested territory, and to claim state/military ownership of natural resources. In this way, abuses against indigenous people may continue under the guise of conservation enforcement.

The creation of the Myinmoletkat Biosphere Reserve in Karen State in the 1990s provides one example of this phenomenon. Creation of the reserve, facilitated by Wildlife Conservation Society (WCS) and the Smithsonian Institute (both based in USA), and pushed through by a Thai/Burmese oil consortium, reportedly led to violent oppression of Karen communities living in the area.³⁵ According to the World Resources Institute (WRI), the relocations led to clashes between the military and Karen opposition groups, forcing 20,000 new refugees into Thailand.³⁶ In addition,

³⁰ Refer to Office of the United Nations High Commission for Human Rights website at <http://www.ohchr.org/english/countries/mm/index.htm>, last accessed April 2007; and United Nations Human Rights Council Report 2007

³¹ U.S. Department of State, Country Reports on Human Rights Practices for 2006: Burma (2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78768.htm>.

³² Smith, M. 1994.

³³ Burma Environment Committee 2007: 9 -10.

³⁴ *Id.*

³⁵ Associated Press, 1997; Faulder, 1997; Levy and Scott-Clark, 1997; and World Resources Institute, 1998.

³⁶ Brunner *et al.*, 1998.

the new reserve overlapped and disrupted a community conserved area already established by the Karen, known as Kaserdoh.

WCS later then spearheaded the establishment of Hkakabo Razi National Park in the far north of Kachin State in 1998. Since then the number of Burmese military battalions stationed in the surrounding area has risen to over ten, as it is perceived as an important national security zone.³⁷

One published paper reviewing Burma's Protected Area (PA) system found out of 20 PAs reviewed in the paper, 6 are recorded as having "military camps and/or insurgents indicating availability of firearms."³⁸ Many other PAs, according to the same article, contain plantations, mining or logging concessions operated by military-backed companies. One of the PAs mentioned is Shwe U Dawng in Shan State, which according to a Shan environmentalist is located near the Bat Tu military compound that manufactures bombs for the Burmese Army.³⁹ The article didn't mention, however, Loimwe PA also in Shan State, which is located in a hostile area prone to fighting, and which houses a military communication tower on the mountain peak, as has been the case since British colonial times.⁴⁰

Privileging Ecological Science at Expense of Social & Cultural Factors

The main actors that are so far involved in the NBSAP process are limited to implementing apolitical conservation initiatives within the interests of the SPDC, which are largely scientific/technical, focused on ecological security and have little or no regard for indigenous people's knowledge, rights, culture and livelihood security. This can be seen in the notes from the NBSAP proceedings, with only one NGO referring to the "strong cooperation with local communities...and community based natural resource management"⁴¹ in presentations of the work that they are currently doing in mangrove forest restoration.

In addition, the Yangon NBSAP inception meeting declared that they would heavily rely upon a report by a 2005 Birdlife International, UNDP-Burma and Critical Ecosystems Partnership Fund (CEPF) report "Investment Opportunities for Biodiversity Conservation in Myanmar" as a baseline document for the NBSAP process. This report, however, is entirely based on scientific/technical expertise without any regard for social and cultural value, indigenous territories, or the political ethnic conflict rooted in Burma. Furthermore, the mostly foreign authors of the report consulted with few, if any, ethnic Burmese working on environment issues based inside or outside Burma.⁴² Alternative approaches to conservation in Burma will be discussed in a later section on Indigenous Peoples Strategies and Actions.

³⁷ *Id.*

³⁸ Rao, et.al. 2002:363

³⁹ See Noam, Z. 2007.

⁴⁰ *Id.*

⁴¹ NBSAP Proceedings "Developing a National Biodiversity Strategy and Action Plan for Myanmar Inception Workshop 7 - 8 June 2006, Yangon, Myanmar, p 3.

⁴² Based on the listed consulted stakeholders in the report, all of whom were invited to participate in a stakeholder workshop in Yangon in August 2003 and July 2004, and/or who provided feedback on the English language draft.

The Role of International Conservation Organizations and Funds

International environmental organizations and regional institutions grant governments substantial financial assets to carry-out political projects in the name of conservation, thus augmenting nation-state hegemony, irrespective of their political legitimacy. In this way the environmental projects in Burma funded by donors in fact may enhance the non-democratic military framework that upholds the country. The military state, with the aid of regional environmental protection measures, gains control of indigenous territory and the natural resources contained therein.⁴³

International conservation organizations working inside Burma, who must cooperate closely with the SPDC, mirrors the military-conservation alliance due to their mutual desire to remain apolitical in order to facilitate controversial land re-territorialization. The Burmese military dictatorship who has been fighting the indigenous minorities for decades desperately seeks to conquer their indigenous territory, push insurgents into ceasefires, force ceasefire groups to surrender their weapons, bring all people of Burma into the national state-making process, and obtain access to the rich natural resources remaining along the frontier.⁴⁴

Apart from concerns regarding conservation-military re-territorialization and consequent human rights abuses, legitimate concerns are also raised regarding distribution of funds and political corruption. In a country such as Burma with poor governance structures and lack of transparency, distribution of funds to the SPDC for conservation measures should be carefully monitored.

Indigenous Peoples' Environmental Strategies and Actions

For many generations and most recently in the context of the deteriorating political and economic situation in Burma, indigenous peoples have been contributing to the protection of the country's richest biodiversity hotspots which make the country known as "the last frontier of biodiversity in Asia."⁴⁵ Consequently, indigenous people have a wealth of knowledge in nature preservation. This was evident recently in participatory action research (PAR) conducted on the Thai-Burmese border. The local community contributed up to 80 percent of information on the identification and status of micro-habitats and species.⁴⁶ A biodiversity researcher found that "in the absence of indigenous knowledge... [neither] scientific research nor biodiversity conservation would not have been possible because the indigenous knowledge system is interwoven with the traditional livelihood systems that have always been the principles of life for biodiversity conservation."⁴⁷

However, indigenous conservation efforts have not always been rewarding to those engaged in traditional livelihood strategies. For example, after 1988 the military regime granted massive logging concessions to Thai companies which resulted in the degradation of the border old-growth forests to the detriment of local ethnic inhabitants. In response, ethnic nationalities on the border regions have formed ethnic

⁴³ See Noam, Z. 2006.

⁴⁴ See Noam, Z. 2007.

⁴⁵ Brunner *et al.*, 1998.

⁴⁶ SEARIN.2006; KESAN upcoming biodiversity report

⁴⁷ Interview with biodiversity researcher June 2007.

and inter-ethnic organizations to pursue the preservation of ecological and cultural diversity.

I have seen serious environmental destruction in Karen State and since no other organizations were working on the issues we formed a Karen organization to specifically tackle environmental issues. The other reason is that we Karen people depend mainly on forests. If the forests are gone we couldn't survive. Our dignity, culture and traditions would also be lost.⁴⁸

Over the last seven years the number has grown from just a few groups to approximately 20 groups. This indicates that ethnic people can no longer sit back and watch their environment – and subsequently their livelihoods – being destroyed. They are well aware of the linkages between the destruction of the environment and their traditional livelihoods.

For instance, pressing ahead with the hydroelectric power plants on the Salween River⁴⁹ by the concerned parties (Thailand, China and SPDC) has provided no space for potentially affected communities to participate. This has led to the formation of river watch groups, not only indigenous people in the Salween River basin but other river basins elsewhere in Burma, as the only mechanism to fight for a way to voice their concerns. Five reports on the environmental and social impacts of dams on the Salween River have been published by different ethnic organizations on the border and three more reports are underway.⁵⁰ While the state agencies and organizations inside Burma are kept silent on the issues, these borderline reports are providing valuable insights for international communities to gain direct information from the affected communities on the environmental and social problems associated with the building of large dams in Burma.

The ethnic environment groups operating on the Burmese border are addressing the environmental issues through rights-based approaches such as basic indigenous rights, rights to participation and development, etc. Their focus issues include: cultural-based environmental education, indigenous knowledge and natural resource management, river protection and large hydropower development, food security, logging, mining, agriculture, land tenure, and environmental/forest policies and laws. The most common strategies are capacity building of organizations and communities, research and documentation, publishing and information dissemination, public awareness raising and community mobilizing, campaign and advocacy, and network-building at all levels.

The main strength of the ethnic environmental groups on the borders is that they are run by indigenous peoples themselves. Thus, indigenous knowledge is an integral part of their environmentalism. Most of their successful local community-based projects such as community forests and traditional herbal medicines result from the application of indigenous knowledge.

⁴⁸ Interview with Karen woman environmental activist June 2007.

⁴⁹ The Salween River is the longest free-flowing river in Southeast Asia (see Salween Watch 2004).

⁵⁰ The already published reports are SEARIN 2004; KRW 2004; KDRG 2006; Sapawa 2006; and MYPO 2007. Three more reports from Palaung, Kachin and Karen ethnic nationalities are pending.

One of the main constraints for the ethnic groups based outside of Burma is travel security. This has resulted in a major setback in doing campaign and advocacy work at both regional and international levels. In addition, other skills, such as scientific/technical know-how, are also lacking among groups; a long-term or on-the-job capacity-building program can improve these however. To many ethnic environmental groups, financial support for their activities is another big struggle. As small organizations with shaky legal status, groups are often incapable of coping with funding challenges and/or donor-oriented policies, which often deters groups from achieving their potential.

Contrary to ethnic environmental groups based outside of Burma, the most commonly recognized national environmental groups operating inside Burma are run by highly educated, mostly Burman Burmese⁵¹ professionals, many of which are headed by former top-level ministerial employees (mainly from the Ministry of Forestry). To fill this gap, it is vital in executing environmental conservation for space to be created for indigenous people to participate in the highest levels, not only in project activities but also in equal partnership based on a "free, prior informed consent" principle. This strategy can be done in general through indigenous capacity-building, recognizing and strengthening their institutions and continuing empowerment by environmental groups based inside the country.

For the time being, ethnic environmental groups on the border have undertaken initiatives to prepare indigenous environment policies and laws to be included in future state and federal constitutions. Further support is needed for these processes as well as putting these policies and laws into practice at the grassroots level by non-state parties.

Despite the differences in approaches, opportunities, political leverage and ethnicity between nature conservation groups based inside and outside the country, both sides should uphold the universally accepted environmental standards and mechanisms.

Burma Environment Committee Activities for NBSAP

The Burma Environment Committee (BEC) had formed in late-2005 in preparation for a major Burma Environment Seminar held in Chiang Mai, Thailand in January 2006. The committee consists of indigenous Burmese environmental activists working for NGOs based in Chiang Mai who have been working on environment issues for Burma for years. After one of the committee members became aware of the CBD/NBSAP process unfolding in Burma, a workshop was held in Thailand in January 2007 that brought together many Burmese activists (not just from the environment sector, but also woman's groups, social welfare, human rights organizations, etc.). The initial objective was to raise awareness about this complicated global conservation process which none of the activists have heard about before. The outcome of this one-day workshop was to write a letter to those facilitating the NBSAP process in Burma; namely UNEP ROAP, BANCA, NCEA/GEF-Burma, NWCD and Birdlife International Indochina. The workshop participants decided to write the letter in order to raise concerns regarding how this process is unfolding, alert the facilitating organizations that their activities are being

⁵¹ Burman Burmese is the majority ethnicity in the country (about 60 percent).

monitored, demand that indigenous voices are heard throughout the process as well as during the implementation phase, and gain possible alliances with Burmese environmentalists working inside Burma by BEC contributing to the process if deemed appropriate. The letter was just sent in late May and BEC received one reply from UNEP ROAP explaining that, although supportive of indigenous participation in Burma's NBSAP, consultations should wait until *after* the GEF enabling activities application is approved. BEC is currently deciding how to take future action to best have their own voices heard, and how they can support their environmental allies inside the country.

Since this is largely a legal process and many global institutions are involved, BEC contacted the International Human Rights Clinic at Harvard Law School's Human Rights Program (USA) to assist them in legal matters. The Harvard Human Rights Clinic assisted BEC in adding legal jargon for the above-mentioned letter, and wrote two memos outlining the CBD/NBSAP process in Burma, several case studies from other countries, and recommended follow-up actions. In addition, in the near future a 'shadow report' may be written by BEC, with possible assistance from Harvard. This would possibly include documentation of human rights abuses linked to conservation practices in Burma, both past and present, which would provide evidence why the implementation stage for NBSAP warrants concern. The possible 'shadow report' of indigenous voices on Burma's environmental crisis would provide a very different perspective to Burma's environmental situation than that purported by the Burmese military as well as conservation organizations working inside the country.

BEC will continue to engage on this issue in order to make sure that conservation practices conducted inside the country by the military regime considers as much as possible the role of indigenous people in natural resource management.

Conclusion

The NBSAP guidelines and GEF and CBD principles recognize the integral role of indigenous peoples in natural resource management. To successfully conserve Burma's biodiversity, decision making about national biodiversity conservation can not exclude indigenous peoples, including ethnic environmental organisations based both inside and outside the country. Exclusion of these stakeholders from NBSAP development and implementation is problematic not just for incomplete 'stocktaking', and disregard for the importance of indigenous knowledge, culture and rights, but also because environmental grants for conservation could potentially lead to further repression and human rights abuses and reduce indigenous people's access to and management of natural resources.

UNEP ROAP as a facilitator of this process should, despite obvious political hurdles, encourage the current main actors in Burma to implement broader participation in the process to ensure that natural resource governance strategies are not just scientific but in line with CBD's Article 8(j). At the same time, safeguards are needed to ensure indigenous people's voices are heard (EIAs, SIAs, etc.) and that human rights abuses linked to conservation are averted. This approach alongside concurrent encouragement of the regime to stop unsustainable resource extraction would ensure more successful, long-term biodiversity conservation than is currently planned, and is a move towards livelihood security for indigenous people in Burma.

Recommendations

The following recommendations of actions and strategies for including Burma's indigenous peoples' participation in the NBSAP process should be brought to the attention of the IIFB, GEF, COP and those institutions and INGOs facilitating Burma's NBSAP.

- UNEP ROAP, GEF and INGOs facilitating the process should insist that Burma's regime-led NBSAP provides for substantive participation by indigenous groups and environment groups with indigenous representation, based both inside and outside Burma. Indigenous peoples could better participate in this process through:
 - A representative seat on the NBSAP coordinating committee charged with organizing the development of the plan, such as the Project Management Team and each one of the three Thematic Working Groups;
 - Participation in consultations, conferences and workshops as part of the NBSAP; and
 - Include indigenous knowledge as part of the stocktaking process.
- Provide capacity-building trainings with stakeholders currently being consulted by UNEP ROAP on people-focused conservation approaches, such as the importance of community-conserved areas and indigenous peoples' natural resource management.
- Encourage consultations among indigenous groups and environment organizations with indigenous representation by those based inside and outside the country as to what their joint-strategy will be for engaging on the NBSAP.
- Advocate for good governance measures for NBSAP implementation stage.
 - One safeguard would be to have an independent watchdog body to monitor the NBSAP process to ensure that the NBSAP related funds do not perpetuate human rights abuses.
- Push for other safeguards to protect Burma's biodiversity that support indigenous peoples, their natural heritage and traditional territories.
 - Mandatory environmental impact assessments (EIAs), complemented by social impact assessments (SIAs), that require participation by affected communities, and are readily available to the public (ie. public hearings); and
 - Provide trainings with relevant parties inside Burma on indigenous environmental rights and develop a code of conduct/protocol to ensure these rights are protected
- Encourage the Burmese regime to stop granting unsustainable natural resource concessions to foreign and national companies, irrespective of severe negative impacts on local communities and related human rights abuses.

- All information about NBSAP be made accessible (including in local languages).

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