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**WIPO PANEL ON, “INDIGENOUS AND LOCAL COMMUNITIES’
CONCERNS AND EXPERIENCES IN PROMOTING, SUSTAINING
AND SAFEGUARDING THEIR TRADITIONAL KNOWLEDGE,
TRADITIONAL CULTURAL EXPRESSIONS AND GENETIC
RESOURCES”**

A CASE OF THE LAIKIPIA MAASAI IN KENYA

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* This document comprises the presentation in the form received from the presenter. Any views expressed in the presentation are not necessarily those of WIPO or any of its Member States.

1. INTRODUCTION:

This presentation discusses the efforts indigenous peoples are making to protect, manage, strengthen and promote their cultural heritage for both cultural and economic benefit. It also highlights a community perspective on traditional cultural expressions and knowledge and the need for partnership, or the value added by a partnership, to community efforts in enhancing its development.

The project concept was initiated through a community meeting and information sharing held in 2003. From the meeting, the major problems affecting the culture and the community were a lack of respect for the culture and the exploitation of both cultural and natural resources without any benefits going to the community. The community meeting resolved that the Maasai culture was on the verge of disappearing, the Maasai children could no longer fluently speak and culturally express themselves and, worse still, the culture was being misused by others.

The Laikipia Maasai of Kenya, with a total population of 35,468, are pastoralists and they derive their livelihood and mainstay from livestock keeping. Their unique skills and expertise in interacting with rangelands and nature in broader terms has enabled them to survive the ongoing cultural explosions fuelled by the effects of globalisation. They form 10% of the total population in Laikipia district and as a political minority, they are threatened with assimilation if efforts are not undertaken to conserve their identity and culture.

2. THE PROBLEM/CHALLENGES

The Laikipia Maasai community is concerned that the Maasai culture is often used to attract tourists and contributes a lot to the economic development of the country while the Maasai themselves are quickly losing their cultural resources. The tourism industry often generates very little economic benefits to the Maasai communities as their cultural expressions are copied and marketed by others. This is the case of beadwork, traditionally produced by the Maasai women but now copied by others, who, despite the poor quality of the products, have better access to the market and who sell their fake products as authentic Maasai products.

It is also the concern of the community that, internationally, the Maasai name is widely used to promote and market products such as cars, shoes and clothes that are completely unrelated to the Maasai community. Among this community, this leads to a strong sentiment of being misused.

The traditional cultural expressions and knowledge such as music, performing arts, designs and oral narratives are part of the lives of the Maasai community and such expressions are in danger of disappearing. The Maasai are now faced with more serious challenges than ever before! There is increasing pressure to change their land tenure systems and as such livelihood, culture and future. The diminishing natural resource base, food insecurity and poverty have eroded their self-confidence and self-determination. By and large, these interwoven realities threaten the intricate social, cultural and economic fabric that has made the Maasai unique.

Commoditization and commercialization of cultural expressions without Prior Informed Consent (PIC) of the Maasai people and the expropriation of ancestral land used for individual purposes and wildlife conservations excluding the Maasai is another major problem that is affecting the livelihood system and community social set up and organisation.

Loss of language by the young generation is another big problem, which is contributing to the rapid loss of culture. Very little has been done so far to conserve and promote Maasai culture within the education system and often children are discouraged to use their traditional language in schools. This makes the young people reluctant in learning about culture and the indigenous language.

3. LAIKIPIA MAASAI COMMUNITY PERSPECTIVE ABOUT TK AND TCES

Traditional knowledge among the Laikipia Maasai community is a gift from the creator to their ancestors. The traditional knowledge and the traditional cultural expressions are inseparable.

It is a resource within our natural environment and us. It is also our indigenous knowledge on the varieties of species of herbs in our forests and administration skills of such medicines for both human and livestock treatment.

For example, Indigenous knowledge and skills in the management of the human health – herbal plants are used for the preservation of Milk –“**Olorien**” *Olea Africana/Africa Olive*, is used for the treat of the gourds and milk would fresh for long period. Certain plants are also used for special ceremonies and ritual and for treatment of certain ailments. **Olmakutikuti** is a traditional herb for treating (STDs) sexually transmitted diseases. **Olorien**; African olive outer stem cover is used to treat worms and liver flukes in livestock. **Oltipilikwa** is a bitter herbal medicine used to treat malaria.

The traditional knowledge of this community is mostly with the old people (**elders**) and the young generation are reluctant in the learning about this knowledge.

From all these factors that contribute to loss of the culture, the community has realised the need to preserve the existing knowledge within the elders.

As regards to the protection of traditional cultural expressions among the Laikipia Maasai community, these include their music, performing arts, designs and oral narratives. The community has identified the need for protection of traditional cultural expressions, which are cultural resources which constitute not only an essential value for the community themselves but have also a potential commercial value for the community.

The other major reason for the protection of the cultural heritage of the community is to make the documentation of the culture available for the world to learn about the uniqueness of the culture and also inform policy makers and other development actors who may be interested in bringing development to this community.

One example, is a successful community initiative in integration of cultural heritage and economic development.

Through establishment of community enterprises, local jobs creation, skills development, appropriate tourism and sale of community products for foreign earnings can be achieved.

The Iingwesi community of Laikipia district in Kenya is a good example where an eco-tourism enterprise has been established and is run and managed by the local indigenous Maasai. The eco-lodge play an important role in the local economic development of the whole community as well as promoting the culture, which is the community archive for traditional knowledge and traditional cultural expressions. This initiative is a model in the East Africa communities in promoting appropriate tourism and best conservation practices.

Opportunities for the protection of TK and TCEs

In Kenya, a Task Force on the development of laws for the protection of traditional knowledge, genetic resources and folklore has been setup, under the office of the Attorney General. The community, therefore, can raise their concerns to the task force to be considered and included in the development of the new policy.

4. THE PARTNERSHIP BETWEEN THE MAASAI, WIPO AND THE ILO

This partnership grew out of initial discussions between the Maasai Cultural Heritage Foundation, WIPO and ILO, and this led to invitation of the two UN specialised agencies by the community to visit the community for information-sharing and consultation in Laikipia last year in October. The partnership attempts at bringing the differentiated experiences, resources and approaches of the partners together in an innovative process towards achieving a set of common objectives.

From this consultative meeting, the community identified and prioritised issues that they need to address in order to enhance their development and reduce poverty at the local level. Two of the immediate priorities raised in the community consultation meeting are already ongoing and these are the internship I am undergoing at the ILO and a market assessment to study the economic potential of the Laikipia Maasai and their cultural resources.

5. INTERNSHIP

The internship's purpose is to strengthen the exchange of experiences and skills between the partners and also as part of capacity building. Through my presence here as an intern at the ILO, I am able to facilitate forward movement on the partnership.

At WIPO

The ILO and WIPO each bring their respective areas of expertise to the community, and this is a good example of concrete and practical inter-agency cooperation. The ILO has significant expertise in local economic development and human rights issues as they concern indigenous peoples.

In this presentation, I will focus, however, on our work on intellectual property issues with WIPO. **WIPO's Creative Heritage Project** is working on the management of intellectual property issues during the recording, digitizing and making available of traditional knowledge and cultural expressions and this is the context within which the partnership between the community and WIPO is found.

During my internship, I am working closely with WIPO and I am:

- Undertaking a survey on the existing IP legal provisions, mechanism and tools relating to the protection of cultural heritage.
- Developing practical guidelines in the form of a small handbook to be used by the Laikipia Maasai community for protecting their cultural expressions through IP measures
- Undertaking web research on the use of the word Maasai by unauthorised parties for commercial purposes.
- Exploring the conditions surrounding the recording of Maasai cultural expressions in Laikipia for the digitising and restoration of existing recording the community has already undertaken

6. EXPECTATIONS FROM THE PARTNERSHIP WITH WIPO

The community is hoping that its partnership with WIPO will:

- assist the Laikipia Maasai in exploring to what extent the IP issues are relevant to their efforts to better protect, manage and promote their cultural heritage. The community is interested in exploring the use of trademarks to promote handicraft (particularly beadwork done by women), copyright for the protection of music and songs and patents in the context of traditional medical knowledge.
- assist in legal and technical advice to the community on the use of the Maasai identity and cultural resources by unauthorised parties as marketing tools for increasing income with no benefit going to the community.
- assist the community to protect their TCEs like music through establishment of an online library and putting legal protective measures by recording new music, digitising and restoring the existing ones to enable in the long-term benefit sharing to the source community.
- contribute to the development of a manual on intellectual property specifically tailored for the Maasai.
- enhance the community capacity through providing intellectual property awareness raising and training, which in the long run will enable the community to participate fully in their own development at various levels.

7. LESSONS TO THE INTERGOVERNMENTAL COMMITTEE

The Maasai believe that their development has to start from home. Cultural education is seen as one way of strengthening the culture internally among the Maasai while at the same time promoting respect and understanding among other communities.

The Maasai community has a rich heritage and diverse skills and it has been used for so long without authority from the community and without any benefits accruing to the community or if any it is insignificant to the level of damage done to the identity of the community.

The Maasai livelihood that is pastoralism is a productive system, a culture and a form of identity and contributes a lot to the national development of the country but the national policy frameworks do not in most circumstances favour the pastoralists.

The community expects the international laws and practices to respect their traditional institutions of governance and the culture.

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